

FILED  
U.S. DISTRICT COURT

2006 SEP -1 A 11: 05

CLERK OF DISTRICT COURT  
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Heinz J. Mahler - #3832  
Stephen D. Kelson - #8458  
KIPP AND CHRISTIAN, P.C.  
Attorneys for Plaintiff  
10 Exchange Place, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84111

Telephone: (801) 521-3773

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

CAROLINA CASUALTY INSURANCE  
COMPANY,

Plaintiff,

vs.

TYMER YEATES, an individual, SHARI  
YEATES, an individual,

Defendants.

:  
: Case No. 1:05CV00124 PGC  
:  
:  
: **ORDER GRANTING STIPULATED**  
: **MOTION TO EXTEND TIME TO FILE**  
: **PLAINTIFF'S MEMORANDUM IN**  
: **OPPOSITION OF DEFENDANTS'**  
: **MOTION FOR SUMMARY**  
: **JUDGMENT**

:  
Judge Paul G. Cassell

Based on the parties' Stipulation and good cause appearing,

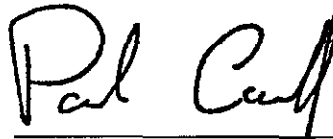
**IT IS HEREBY ORDERED** that Plaintiffs are granted an extension of time to file  
their Memorandum in Opposition to Defendants' Motion for Summary Judgment to  
**September 9, 2006.**

The motion for extension of time to file a response to defendants' motion for summary judgment is GRANTED [#29].

SO ORDERED.

**DATED** this 31st day of August, 2006.

BY THE COURT

A handwritten signature in black ink, appearing to read "Paul Cassell", written over a horizontal line.

JUDGE PAUL G. CASSELL  
UNITED STATES DISTRICT COURT

FILED  
DISTRICT COURT

2006 AUG 31 P 2:01

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

DISTRICT OF UTAH, NORTHERN DIVISION

BY: DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIO SILVA-ESTRADA,

Defendant.

**ORDER TO CONTINUE**

Case No. 1:06CR16 DS

Honorable David Sam

Based upon the motion of the Defendant, the Court find as follows:

1. That counsel for Defendant recently received additional information from the government regarding this matter. Counsel needs additional time to investigate and to disclose the information to Defendant;
2. That failure to continue the trial in this matter would deny counsel for Defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence; and
2. That the ends of justice served by continuing the trial in this matter outweigh the interest of the public and Defendant in a speedy trial.

It is therefore ORDERED that the Defendant's Motion to Continue Trial (Docket No. 14) is GRANTED.

IT IS FURTHER ORDERED that the 4-day jury trial set for August 29, 2006, is continued until the 28<sup>th</sup> day of November 2006. Pursuant to 18 U.S.C. § 3161(H)(8) the

time from August 29, 2006, through the date of the new trial is excluded from the computation of time within which the trial must commence pursuant to the Speedy Trial Act.

SIGNED BY MY HAND this 31<sup>st</sup> day of August, 2006.

BY THE COURT:

  
\_\_\_\_\_  
HONORABLE DAVID SAM  
United States District Court Judge

ELIZABETH S. WHITNEY (5160)  
JOHN P. BALL (9666)  
PARSONS BEHLE & LATIMER  
Attorneys for Defendants  
One Utah Center  
201 South Main Street, Suite 1800  
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LWhitney@parsonsbehle.com  
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FILED  
FILED IN UNITED STATES DISTRICT COURT  
COURT, DISTRICT OF UTAH  
SEP - 1 2006 SEP - 1 A 11: 04  
MARKUS B. ZIMMER, CLERK  
BY DEPUTY CLERK  
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

OGDEN CITY REDEVELOPMENT  
AGENCY,

Plaintiff,

vs.

ONTARIO SPECIALTY CONTRACTING,  
INC., LUMBERMENS MUTUAL  
CASUALTY COMPANY,

Defendants.

ONTARIO SPECIALTY CONTRACTING,  
INC.,

Counterclaimant,

vs.

OGDEN CITY REDEVELOPMENT  
AGENCY,

Counterclaim Defendant.

**ORDER FOR PRO HAC VICE ADMISSION**

Case No. 1:06-CV-0053-PGC

Judge Paul G. Cassell

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of

DUCiv R 83-1.1(d), the motion for the admission pro hac vice of GREGORY P. PHOTIADIS in the United States District Court, District of Utah in the subject case is GRANTED.

Dated this 1<sup>st</sup> day of Sept., 2006.

  
\_\_\_\_\_  
JUDGE PAUL G. CASSELL

FILED  
U.S. DISTRICT COURT

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

AUG 31 2006

MARKUS B. ZIMMER, CLERK  
BY \_\_\_\_\_  
DEPUTY CLERK

ELIZABETH S. WHITNEY (5160)  
JOHN P. BALL (9666)  
PARSONS BEHLE & LATIMER  
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JBall@parsonsbehle.com

SEP -1 A 11:04  
DISTRICT OF UTAH

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION

OGDEN CITY REDEVELOPMENT  
AGENCY,

Plaintiff,

vs.

ONTARIO SPECIALTY CONTRACTING,  
INC., LUMBERMENS MUTUAL  
CASUALTY COMPANY,

Defendants.

ONTARIO SPECIALTY CONTRACTING,  
INC.,

Counterclaimant,

vs.

OGDEN CITY REDEVELOPMENT  
AGENCY,

Counterclaim Defendant.

ORDER FOR PRO HAC VICE ADMISSION

Case No. 1:06-CV-0053-PGC

Judge Paul G. Cassell

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of MATTHEW J. BECK in the United States District Court, District of Utah in the subject case is GRANTED.

Dated this 31<sup>st</sup> day of August, 2006.

  
\_\_\_\_\_  
JUDGE PAUL G. CASSELL



FILED  
U.S. DISTRICT COURT

\* \* \* \* \*

DISTRICT OF UTAH

Civil No. 1:06-CV-0084J

BY: \_\_\_\_\_  
DEPUTY CLERK

## ORDER OF DISMISSAL


**Defendants.**

\* \* \* \* \*

**IT IS ORDERED** that the above-entitled action is **dismissed** with prejudice pursuant to

DATED this 31 day of August, 2006.

BY THE COURT:

  
Bruce S. Jenkins  
United States Senior District Judge

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

\* \* \* \* \*

THE SKULL VALLEY BAND OF  
GOSHUTE INDIANS and PRIVATE FUEL  
STORAGE, L.L.C.

Plaintiffs,

vs.

DIANNE R. NIELSON, in her official  
capacity as Executive Director of the Utah  
Department of Environmental Quality, et al.,

and

MICHAEL O. LEAVITT, in his official  
capacity as Governor of the State of Utah, et  
al.

Defendants.

ORDER MANDATING  
SETTLEMENT NEGOTIATIONS

Case No. 2:01CV00270 TC

Judge Tena Campbell

Magistrate Judge Brooke C. Wells

\* \* \* \* \*

On January 20, 2006, Plaintiffs filed a Joint Motion for Attorney Fees.<sup>1</sup> At the request of the respective parties briefing as well as a hearing on Plaintiffs' motion has been postponed a number of times. On August 25 this court reset a hearing on Plaintiffs' motion for October 5, 2006. Notwithstanding this hearing, the court hereby ORDERS the parties as follows:

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<sup>1</sup> Docket no. 123.

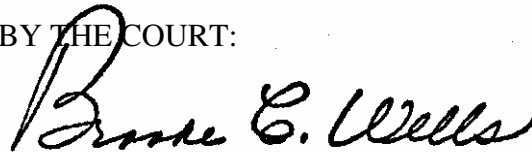
The parties are ORDERED to meet, confer, and explore possible options for resolution of Plaintiffs' Motion for Attorney Fees. Recently, in another case before this court the parties were able to meet and resolve their differences regarding a post-trial motion for attorney fees. By ordering the parties in this case to meet and explore possible settlement options the court hopes that a similar type of resolution may be reached. The court further

ORDERS that by September 26, 2006 the parties are to file a joint affidavit with the court detailing their efforts in resolving this motion. If a settlement is reached, the court is to be notified in writing by that same date and the hearing before this court will be stricken. If a settlement is not reached then the court will go forward with the hearing as planned.

IT IS SO ORDERED.

DATED this 1st day of September, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive, flowing style. The first letter 'B' is large and loops around the first part of the name. The signature is positioned above a horizontal line.

HON. BROOKE C. WELLS  
UNITED STATES MAGISTRATE JUDGE

FILED  
U.S. DISTRICT COURT

2006 AUG 31 P 2: 01

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

Evan A. Schmutz (3860)

Wm. Kelly Nash (4888)

Curtis R. Hussey (5488)

**HILL, JOHNSON & SCHMUTZ, L.C.**

Jamestown Square, Suite 200

3319 North University Avenue

Provo, Utah 84604

Telephone: (801) 375-6600

Attorneys for Plaintiff Coverstar, Inc.

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

COVERSTAR, INC., a Utah corporation,

Plaintiff,

vs.

COOLEY, INC., a Rhode Island corporation,

COOLEY ENGINEERED MEMBRANES,

INC., a Rhode Island corporation,

Defendants.

**ORDER**

Civil No. 2-01-CV-0663 S

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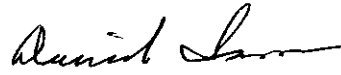
On Monday, August 21, 2006, the Court held telephonic conference with the both parties.

Wm. Kelly Nash appeared on behalf of Plaintiff, and Gary L. Johnson and Zachary Peterson appeared on behalf of Defendants.

Having reviewed the parties' filings with respect to Plaintiff's Rule 59 motion, the Court requested that Defendants file a supplemental memorandum addressing the merits of Plaintiff's

arguments regarding its design defect claim and its reliance on Seal v. Tayco. Such supplemental memorandum shall be filed within ten (10) days of the Court's August 21, 2006 minute entry ruling, or by September 1, 2006.

BY THE COURT



District Court Judge

Approval as to Form:

/s/ Zachary E. Peterson

(Signed copy of document bearing signature of Zachary E. Peterson is being maintained in the office of Evan A. Schmutz)

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

ORDER AND MEMORANDUM  
DECISION RE ALLEGED PRIVILEGED  
DOCUMENTS

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

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Before the court are the remaining issues pertaining to The SCO Group Inc.’s (SCO) Motion for *In Camera* Review of Allegedly Privileged Documents.<sup>1</sup> International Business Machines Corporation (IBM) recalled from its production of documents three documents after counsel for SCO had reviewed the documents and sought to use them during the course of depositions.<sup>2</sup> IBM argues that the documents are protected by the attorney-client privilege.<sup>3</sup> Conversely, SCO argues that the documents are not privileged.<sup>4</sup> Further, SCO “seeks leave to use [these] documents to depose the individuals at whose depositions SCO was precluded from

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<sup>1</sup> Docket no. 678.

<sup>2</sup> See Mem. in Supp. p. 2. The court refers to these documents by the last four digits of their bates number, 33-41, 42-59, and 31-37.

<sup>3</sup> See op. p. 2.

<sup>4</sup> See Mem. in Supp. p. 8-9.

asking the witness about the documents.”<sup>5</sup> SCO argues that it “should be permitted to obtain IBM’s testimony regarding the documents”<sup>6</sup> because two documents concerning the Journaled File System were allegedly claimed as privileged by IBM during a Rule 30(b)(6) deposition.<sup>7</sup>

On June 20, 2006 the court granted SCO’s initial motion in part<sup>8</sup> stating that it was reviewing the documents at issue but declining to allow SCO’s request for a contemporaneous review of the documents.<sup>9</sup> On this same date, SCO filed a reply memorandum arguing for the disclosure of the declarations of Mark Walker and Sharon Dobbs that IBM submitted in support of its argument that the documents are privileged. On June 22, the court entered an order directing IBM to “provide SCO a copy of the declarations.”<sup>10</sup> SCO filed a supplemental reply addressing the declarations on July 7.<sup>11</sup>

The court having considered the parties’ arguments, relevant case law, being dully informed and having reviewed *in camera* the documents at issue, enters the following.

IBM has the burden of establishing the applicability of the attorney-client privilege.<sup>12</sup> “The privilege is governed by the common law and is to be strictly construed.”<sup>13</sup> When a corporate client is involved there are often special problems because, “[a]s an inanimate entity, a

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<sup>5</sup> *Id.* p. 10.

<sup>6</sup> *Id.*

<sup>7</sup> Both parties make allegations concerning problems with the production of the opposing parties’ privilege logs. This issue is not before the court. The court, however, encourages both parties to use their best efforts in timely providing complete and accurate privilege logs.

<sup>8</sup> Docket no. 711.

<sup>9</sup> See [U.S. v. Hall, 854 F.2d 1036, 1034 \(7th Cir. 1988\)](#) (explaining the procedure for an *in camera* review of documents). Although there may be variations in method, the court is unaware of a practice that allows the opposing party to view the contested documents at the same time a court is conducting its review.

<sup>10</sup> Order dated June 22, 2006 p. 1.

<sup>11</sup> Docket no. 720.

<sup>12</sup> See [In re Grand Jury Subpoenas, 144 F.3d 653, 658 \(10th Cir. 1998\)](#).

<sup>13</sup> *Id.*

corporation must act through agents.”<sup>14</sup> Finally, as noted by SCO, “Clients and their attorneys often assume, erroneously, that merely conveying something to an attorney will cloak the underlying facts from disclosure. It will not.”<sup>15</sup> The mere fact of submitting a document to counsel for legal input will not automatically entitle it to become a protected.<sup>16</sup>

IBM argues that “[a]s demonstrated by the documents themselves and the declarations”<sup>17</sup> each of the three documents is protected by the attorney-client privilege for four reasons. First, each document “was prepared at the request and under the direction of counsel for IBM.”<sup>18</sup> Second, each document was prepared for counsel’s use in giving legal advice, or was to be incorporated into counsel’s legal advice and opinions.<sup>19</sup> Third, the documents were “not used to render business advice.”<sup>20</sup> And fourth, each of the documents “was kept confidential within IBM.”<sup>21</sup>

Mark Walker’s declaration concerns documents 33-41 and 42-59. Allegedly, he “directed the product legal liaisons . . . to create a document to define the process and procedures to be followed by their departments to ensure the intellectual property integrity of the source code.”<sup>22</sup> Mr. Walker states that both the documents “reflect and incorporate legal advice”<sup>23</sup> given by him. The “purpose of the document[s were] neither related to the provision of business

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<sup>14</sup> *Id.* (quoting [Commodity Futures Trading Comm’n v. Weintraub](#), 471 U.S. 343, 348, 105 S.Ct. 1986 (1985) (alterations in original)).

<sup>15</sup> [Renner v. Chase Manhattan Bank](#), 2005 WL 1356192 \*5 (S.D.N.Y. Nov. 2001) (quoting Edna Selan Epstein, *The Attorney-Client Privilege and the Work-Product Doctrine* 48 (4th ed. 2001)).

<sup>16</sup> See [Burton v. R.J. Reynolds Tobacco Co.](#) 200 F.R.D. 661, 670 (D. Kan. 2001); accord [Adams v. Gateway, Inc.](#), 2003 WL 23787856 \*11 (D. Utah 2003).

<sup>17</sup> Op. p. 3.

<sup>18</sup> *Id.*

<sup>19</sup> See *id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Decl. Mark Walker p. 2.

<sup>23</sup> Decl. Mark Walker p. 3.



advice nor to the technological improvement of the product.”<sup>24</sup> Instead, they were designed to ensure legal compliance. The documents were labeled “IBM Confidential.”<sup>25</sup> And, in both documents is a prominent statement regarding the importance of proper licensing and documentation to prevent lawsuits or code infringement.<sup>26</sup>

The declaration of Sharon Dobbs shares similar characteristics to those found in Mr. Walker’s declaration. Ms. Dobbs’ declaration concerns document number 31-37, which is a summary of the Joint Development Agreement (JDA) between IBM and The Santa Cruz Operation, Inc. (Santa Cruz). Document 31-37 includes information on the issues surrounding licenses, royalties, liabilities and termination conditions for the JDA.<sup>27</sup> Ms. Dobbs states that the document was requested by her to “facilitate my legal advice.”<sup>28</sup> It was not designed for business advice, was solely for Ms. Dobbs’ use, and was not distributed to other individuals outside IBM.<sup>29</sup>

In response to these declarations SCO argues that “The declarations underscore the relevance of the analysis in *Adams v. Gateway, Inc.*,<sup>30</sup> in which the court distinguished between material protected by the privilege and ‘horizontal activity . . . which had significant purposes independent of legal considerations.’”<sup>31</sup> “The presence of the ‘legal purpose’ required to shield a document from discovery ‘is determined from inspection of the document.’”<sup>32</sup> SCO continues, arguing that “if the documents here have a primary purpose other than legal advice, such as

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<sup>24</sup> *Id.* p. 4.

<sup>25</sup> *Id.*

<sup>26</sup> *See id.* p.4.

<sup>27</sup> *See* Decl. Sharon Dobbs p. 2.

<sup>28</sup> *Id.*

<sup>29</sup> *See id.* p. 4.

<sup>30</sup> [2006 WL 23787856 \(D. Utah 2003\)](#).

<sup>31</sup> Supp. Reply p. 2 (quoting [Adams, 2006 WL 23787856](#) at \*11).

<sup>32</sup> *Id.* (quoting [Adams, 2006 WL 23787856](#) at \*11).

providing lawyer oversight of a ‘complex business challenge’ or lawyer input to a normal business document, then the privilege does not attach.”<sup>33</sup> According to SCO, the creation of the Journaled File System (JFS) for the projects addressed in Mr. Walker’s declaration is a business purpose. And, Mr. Walker’s activities fall under the categories of lawyer oversight or lawyer input as opposed to legal advice.<sup>34</sup>

Next, in relation to Ms. Dobbs, SCO argues that Ms. Dobbs’ declaration is full of conclusory statements that allude to legal advice in only a general manner.<sup>35</sup> SCO alleges these “conclusory statements fail to satisfy IBM’s burden of establishing that the privilege is applicable with respect to the JDA summary.”<sup>36</sup>

#### Documents 33-41 and 42-59

As noted by SCO in its pleadings, the court in *Adams v. Gateway*,<sup>37</sup> drew a distinction between materials that are protected by the attorney-client privilege and “horizontal activity . . . which had significant purposes independent of legal considerations.”<sup>38</sup> Gateway argued that its investigation into possible defects with its computers was concerned with possible litigation and not the “real world issues important to Gateway retail sales, product reliability and consumer satisfaction.”<sup>39</sup> The court rejected Gateway’s argument and found that most of the withheld documents were not privileged because notwithstanding the litigation possibilities, “Gateway’s self-interest as a retailer of computer products motivated its investigation.”<sup>40</sup> Thus, there was

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<sup>33</sup> *Id.*

<sup>34</sup> *See id.* p. 3.

<sup>35</sup> *See id.*

<sup>36</sup> *Id.*

<sup>37</sup> [2001 WL 23787856](#).

<sup>38</sup> *Id.* [2006 WL 23787856](#) at \*11.

<sup>39</sup> *Id.* [2006 WL 23787856](#) at 4.

<sup>40</sup> *Id.*

“simply too much horizontal activity in Gateway’s projects which had significant purposes independent of legal considerations”<sup>41</sup> for the documents to be protected.

Here, the court finds that although the JFS may have a business purpose-maintaining code so that IBM may develop its business-the documents at issue concern the legal implications of that business activity. It is not uncommon in the business world for a corporation to receive legal advice about its business activities. If this type of advice could not be protected corporations would be at a significant disadvantage in conforming to the law and class action lawsuits would become more prevalent than snow on a mid winter’s day in Utah. As long as the primary purpose of such advice is a legal purpose, then such advice may be protected by the attorney-client privilege.<sup>42</sup>

Based on a review of the documents, and the declaration of Mr. Walker, the court finds the documents primary purpose is for legal advice. Accordingly, the court further finds they are protected by the attorney-client privilege.

Finally, the court wishes to note that even if the court found the documents at issue to be discoverable, SCO has failed to convince this court that they could use them in redposing a witness, or use them in some future 30(b)(6) deposition. In its opposition, IBM argues that “The two documents concerning the Journaled File System were not, as SCO claims, withdrawn as privileged during a Rule 30(b)(6) deposition: They were identified as privileged during the deposition of William Baker, a third party witness who was not at the time of his deposition nor currently an IBM employee.”<sup>43</sup> There is no evidence before the court indicating they were

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<sup>41</sup> *Id.* [2006 WL 23787856](#) at \*11.

<sup>42</sup> *See id.*

<sup>43</sup> *Op.* p. 3 fn. 5.

withdrawn during a 30(b)(6) deposition as SCO claims. Thus, there would be no need to obtain IBM's testimony regarding the documents.

Document 31-37

In *Upjohn Co. v. United States*,<sup>44</sup> the Supreme Court noted “the privilege exists to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice.”<sup>45</sup> The court finds that document 31-37 fits within this category. It is a document prepared at the direction of an attorney to enable the attorney to give “sound and informed advice.”<sup>46</sup> The document is replete with information that would help Ms. Dobbs give IBM advice about the implications of the JDA between IBM and Santa Cruz. It is distinguishable from the documents ordered discoverable in *Adams v. Gateway*,<sup>47</sup> because it does not have “significant purposes independent of legal considerations.”<sup>48</sup>

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<sup>44</sup> [449 U.S. 383, 101 S.Ct. 677 \(1981\)](#).

<sup>45</sup> *Id.* [449 U.S. at 390](#); *see also Natta v. Hogan*, [392 F.2d 686, 692-93 \(10th Cir. 1968\)](#) (“The recognition that privilege extends to statements of a lawyer to a client is necessary to prevent the use of the lawyer's statements as admissions of the client”).

<sup>46</sup> *Id.*

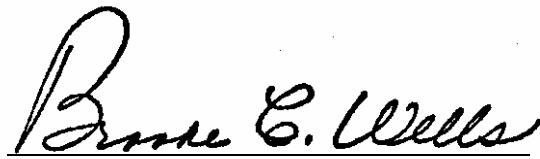
<sup>47</sup> 2006 WL 23787856 .

<sup>48</sup> *Id.* 2006 WL 23787856 at \*11; *see also Sprague v. Thorn Americas, Inc.*, [129 F.3d 1355](#), 1370 (10th Cir. 1997) (concluding that a memorandum was protected by the attorney-client privilege).

Based on the foregoing, the court adopts the arguments set forth by IBM. The court finds that IBM has met its burden of establishing the applicability of the attorney-client privilege. And, the court further finds that the documents at issue are protected from disclosure by the attorney-client privilege. Therefore, the documents are not discoverable and do not need to be provided to SCO.

IT IS SO ORDERED.

DATED this 1st day of September, 2006.

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive, flowing style. The first name "Brooke" is written with a large, looped 'B'. The middle initial "C." is small and follows the first name. The last name "Wells" is written with a large, looped 'W' and a trailing flourish.

Brooke C. Wells  
United States Magistrate Judge

Richard D. Clayton, 0678  
David K. Broadbent, 0442  
HOLLAND & HART LLP  
60 E. South Temple, Suite 2000  
Salt Lake City, Utah 84111-1031  
801-595-7800

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

DAVID M. WOLFSON; NUWAY  
HOLDING, INC., a Nevada corporation;  
MOMENTUS GROUP, LLC, a Utah  
limited liability company; LEEWARD  
CONSULTING GROUP, LLC, a Utah  
limited liability company; SUKUMO  
LIMITED, a company incorporated in the  
British Virgin Islands (a.k.a SUKUMO  
GROUP, LTD., FUJIWARA GROUP,  
FIRST CHARTERED CAPITAL  
CORPORATION, FIRST COLONIAL  
TRUST, FIRST CHINA CAPITAL AND  
INTERNATIONAL INVESTMENT  
HOLDING); MICHAEL SYDNEY  
NEWMAN (a.k.a MARCUS WISEMAN);  
STEM GENETICS, INC., A Utah  
corporation; HOWARD H. ROBERTSON;  
GINO CARLUCCI; G & G CAPITAL,  
LLC, an Arizona and Utah limited liability  
company; F10 OIL AND GAS

ORDER ON  
DECLARATION AND  
FOURTEENTH REPORT OF  
RECEIVER

Civil No. 2:03CV-00914

Judge Dale A. Kimball  
Magistrate David O. Nuffer

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PROPERTIES, INC.; JON H. MARPLE;	)
MARY E. BLAKE; JON R. MARPLE;	)
GRATEFUL INTERNET ASSOCIATES,	)
L.L.C., a Colorado limited liability	)
company; DIVERSIFIED FINANCIAL	)
RESOURCES CORPORATION, a	)
Delaware corporation; JOHN CHAPMAN;	)
VALESC HOLDINGS, INC., a New Jersey	)
corporation; JEREMY D. KRAUS;	)
SAMUEL COHEN; NCI HOLDINGS,	)
INC., a Nevada corporation	)
	)
Defendants.	)

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WHEREAS, on January 12, 2004, this Court entered its Stipulated Order Appointing Receiver in this action, appointing Richard D. Clayton the Receiver for NuWay Holding, Inc., Momentous Group, LLC, Leeward Consulting Group, Inc. and all subsidiaries and affiliated entities;

WHEREAS, on February 23, 2004, this Court entered its Amended Order Expanding Receivership appointing Mr. Clayton, in addition to the companies above named, as the Receiver for Stem Genetics, Inc.; Adobe Hills Ranch, LLC; Adobe Hills Ranch II, LLC; Adobe Hills Ranch III; Club DV8; The Great SaltAir LLC; SaltAir Saloon Social Club; Friendly Bear; David Alexander, LLC; A-Z Pahl Property Management, LLC; A-Z Professional Consulting, Inc.; Oasis International Corp.; Oasis International Hotel and Casino, Inc.; SaltAir Saloon Social Club; The Great SaltAir,II, LLC; Friendly Bear Plaza; the assets of Wayne Mounts, either individually or under any name whatsoever, except for Wayne Mounts' personal assets to the extent that they were not derived from any frozen assets; and the assets of David M. Wolfson, either individually or under any name whatsoever, and all subsidiaries and affiliated entities;

WHEREAS, on March 17, 2004 this Court entered its Order Expanding Receivership to further appoint Mr. Clayton as Receiver of G & G Capital LLC and Gino Carlucci, either individually or under any name whatsoever (hereafter the “Orders”).

WHEREAS, on November 2, 2005 this Court entered its Order Clarifying and Expanding Receivership appointing Mr. Clayton, in addition to the companies above named, as the Receiver for Feng Shui Consulting, Inc.; A-Z Oil Trade Center, LLC; A-Z, LLC; A-Z II, LLC; AAll Finished Construction, Inc.; P/R Business, Inc.; A-Z Professional Consultants Retirement Trust; A-Z Oil, LLC; Great Basin Water Corporation; Lexington One Mile East, Little Pigeon; Lexington Three Mile East Terrace Mountain Estates, Inc.; Lexington Four Mile East Terrace Mountain Estates, Inc. and all subsidiaries and affiliated entities. In addition, the Court in that same Order signed November 2, 2005 clarified that Mr. Clayton is Receiver for Royal Oasis Corporation; Career Worth, Inc.; Regency Development Corporation, Oasis Hotel, Resort & Casino III, Inc.; Diversified Holdings II, Inc.; Diversified Holdings III, Inc.; Diversified Holdings V, Inc.; Club Six Lounge, LLC; Anchor S Ranch, LLC; David Michael, LLC; Diversified Land & Cattle Co.; U.S. Homes & Properties, Inc.; Mounts, Inc.; and all subsidiaries and affiliated entities (hereafter the “Orders”). All Receivership entities and individuals are hereafter referred to collectively as the Companies.

WHEREAS, the Receiver, by Declaration and Fourteenth Report of Receiver filed August 31, 2006 seeks permission to pay the reasonable fees and expenses of the Receiver and HOLLAND & HART LLP as permitted under Section II(h) of the Orders, it is hereby

ORDERED that the Declaration and Fourteenth Report of Receiver filed August 31, 2006 is hereby accepted and approved; and it is further

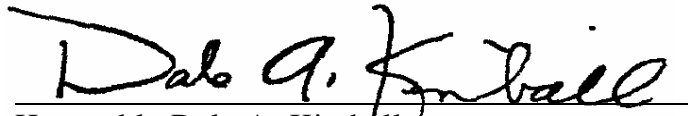


ORDERED that the Receiver may, pursuant to the Orders, pay from the assets of the Companies or the Receivership Estate:

A. the invoice of the Receiver dated August 31, 2006 for fees incurred in March through May 2006 in the amount of \$42,126.00, and

B. the invoice of HOLLAND & HART LLP dated August 31, 2006 for fees and expenses incurred in March through May 2006 in the amount of \$52,573.64.

Dated: September 1, 2006.

  
\_\_\_\_\_  
Honorable Dale A. Kimball  
United States District Court  
for the District of Utah

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of August, 2006, I electronically filed the foregoing ORDER ON DECLARATION AND FOURTEENTH REPORT OF RECEIVER with the Clerk of Court using the CM/ECF system which sent notification of such filing to the following:

Thomas M. Melton, Esq.  
Karen L. Martinez  
Securities and Exchange Commission  
Salt Lake District Office  
15 West South Temple, Suite 1800  
Salt Lake City, UT 84101  
meltont@sec.gov  
martinezk@sec.gov

Michael S. Golightly, Esq.  
268 West 400 South, Suite 311  
Salt Lake City, Utah 84101  
mikegolite@hotmail.com

Richard O. Weed, Esq.  
WEED & CO, LLP  
4695 MacArthur Court, Suite 1430  
Newport Beach, CA 92660  
rick@weedco.com jane@weedco.com,specialprojectcounsel@msn.com

Erik A. Christiansen, Esq.  
PARSONS, BEHLE & LATIMER  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
ecf@parsonsbehle.com  
echristiansen@parsonsbehle.com,cgroos@parsonsbehle.com

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Howard H. Robertson  
2994 West 12875 South  
Riverton, Utah 84065

Allen Wolfson  
03430-018  
METROPOLITAN DETENTION CENTER  
P.O. Box 329002  
Brooklyn, New York 11232

David Wolfson  
625 North Flores Street, # 203  
West Hollywood, California 90048

William B. Parsons, III Esq.  
440 East 3300 South  
Salt Lake City, UT 84115  
william.b.parsons@worldnet.att.net shepherd@wirelessbeehive.com

/s/ Mary Loll

---

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

---

**ACC CAPITAL CORPORATION, f/k/a/  
ANEMBAL CAPITAL CORPORATION**

**Plaintiff,**

**vs.**

**BIOSCAN, INC.,**

**Defendant.**

**ORDER**

**Case No. 2:04CV322DAK**

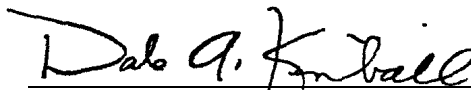
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This matter is before the court on Defendant Bioscan, Inc.'s ("Bioscan") Motion for Interim Award for Attorneys' Fees. The court declines to entertain the instant motion until after the conclusion of this action, which is set for a five-day bench trial beginning on Monday, November 13, 2006.

The motion [docket # 87] is hereby DENIED without prejudice to renew after the trial.<sup>1</sup> The hearing on this motion, currently set for Wednesday, September 20, 2006 at 3:00 is hereby VACATED.

DATED this 31<sup>st</sup> day of August, 2006.

BY THE COURT:



---

DALE A. KIMBALL  
United States District Judge

---

<sup>1</sup> After the trial, Bioscan is directed to file a "Notice to Renew Motion for Award of Interim Attorneys Fees," with no additional briefing on this issue.

FILED  
U.S. DISTRICT COURT  
2006 AUG 31 P 2:01  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

Matthew M. Durham (6214)  
Justin B. Palmer (8937)  
STOEL RIVES LLP  
201 S Main Street, Suite 1100  
Salt Lake City, UT 84111  
Telephone: (801) 328-3131

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DISTRICT

SAUNSIRAE KING, individually and as  
the surviving spouse and beneficiary of  
JULIE ANN KING,

Plaintiff,

v.

ALLIANT FOODSERVICE, INC.  
PENSION PLAN; ALLIANT  
FOODSERVICE, INC. THRIFT PLAN,  
US FOODSERVICE, INC., a Maryland  
corporation; and JOHN DOES 1  
THROUGH 5,

Defendants.

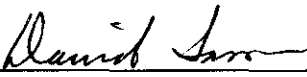
**ORDER OF DISMISSAL WITH  
PREJUDICE**

Case No. 2-04-cv-514

The Honorable David Sam

The Parties, having filed a Stipulation of Dismissal With Prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure providing that this action is dismissed with prejudice, and good cause appearing therefore, this Court hereby orders that this action is hereby dismissed with prejudice in its entirety.

DATED this 31<sup>st</sup> day of August, 2006.



Honorable David Sam

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

FILED  
U.S. DISTRICT COURT  
*9/1/06*  
~~2006 AUG 32~~ A 8:50  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

JAMES W. BURBANK,

Plaintiff,

vs.

No. 2:04CV00742 JEC

UNITED STATES DISTRICT COURT,  
*et al.*,

Defendants,

UINTAH COUNTY, UTAH, *et al.*,

Counter-Claimants,

vs.

JAMES W. BURBANK, *et al.*,

Counter-Defendants.

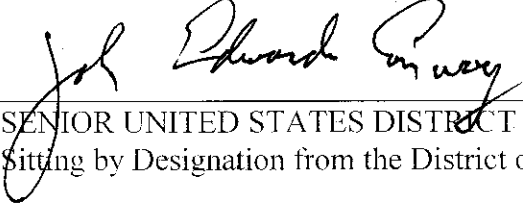
**ORDER**

THIS MATTER comes before the Court on a document styled "*Motion and Demand For Court to Bring Criminal Charges of Extreme Bad Conduct On Jesse C [sic] Trentadue Attorney, Firm of, and/or SUITTER AXLAND & Other Offenders. Jury Demanded.*" filed November 28, 2005 (Doc. 79) ("Motion"). The Court has strained, but failed, to identify any legally cognizable request for relief in this Motion. The Court has considered the Motion and the relevant authority. Recognizing that it has no power to "bring criminal charges" against Mr. Trentadue, his law firm, or any "Other Offenders," the Court hereby denies the Motion.

WHEREFORE,

**IT IS ORDERED** that the *Motion and Demand For Court to Bring Criminal Charges of Extreme Bad Conduct On Jesse C [sic] Trentadue Attorney, Firm of, and/or SUITTER AXLAND & Other Offenders. Jury Demanded,* filed November 28, 2005 (Doc. 79) is DENIED.

Dated this 25 day of August, 2005.

  
\_\_\_\_\_  
SENIOR UNITED STATES DISTRICT JUDGE  
Sitting by Designation from the District of New Mexico



United States Probation Office  
for the District of Utah

**Request for Early Termination of Supervision**

FILED  
U.S. DISTRICT COURT

Name of Offender: **Laura Cervantes**

Docket Number: **2:05-CR-00377-001-DS**  
2006 AUG 31 P 2:01

Name of Sentencing Judicial Officer:

**Honorable Lawrence O. Anderson**

DISTRICT OF UTAH

**United States Magistrate Judge, District of Arizona**

DEPUTY CLERK

Date of Original Sentence: **October 1, 2004**

Original Offense: **False Statement to Defraud the United States Department of Housing and Urban Development**

Original Sentence: **36 Months Probation**

Type of Supervision: **Probation**

Supervision Began: **October 1, 2004**

---

**SUPERVISION SUMMARY**

---

Jurisdiction of this case was transferred to the District of Utah on June 2, 2005. At this time, the probation office is requesting early termination of supervision. The defendant's scheduled expiration date is September 30, 2007. Throughout her term of supervision, she has been cooperative with the United States Probation Office and compliant with the conditions of her supervision. In February of 2006, the defendant successfully completed substance abuse counseling at the Family Counseling Center, and she has abstained from the use of illicit substances as evidenced by negative urine specimens. In July of 2006, the defendant satisfied her restitution obligation. During unannounced home visits, no evidence of contraband or criminal activity was observed. The defendant is not identified as an immediate third-party risk to the community, and all supervision issues have been satisfied. Contact has been made with Assistant United States Attorney Richard Mesh, District of Arizona, and he has no objection to early termination of supervision. If the Court concurs, a Form 35 is attached for signature.

If the Court desires more information or another course of action, please contact me at 535-4254.

I declare under penalty of perjury that the foregoing is true and correct

*Shelley Mangum*

Shelley Mangum  
United States Probation Officer  
August 29, 2006

Attachment

Report and Order Terminating Probation  
Prior to Original Expiration Date

UNITED STATES DISTRICT COURT 2006 AUG 31 P 2:01

for the

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

DISTRICT OF UTAH

UNITED STATES OF AMERICA

v. Criminal No. 2:05-CR-00377-001-DS

LAURA CERVANTES

On September 30, 2004, the above-named was placed on probation for a period of three years. The defendant has complied with the rules and regulations of probation and is no longer in need of supervision. It is accordingly recommended that the defendant be discharged from supervision.

Respectfully submitted,

Shelley Mangum  
Shelley Mangum  
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 31st day of August, \_\_\_\_\_.

David Sam  
Honorable David Sam  
Senior United States District Judge

Greg G. Skordas (#3865)  
Rebecca C. Hyde (#6409)  
**SKORDAS, CASTON & HYDE, LLC**  
Suite 1104 Boston Building  
9 Exchange Place  
Salt Lake City, UT 84111  
Telephone: 801/531-7444  
Facsimile: 801/531-8885

FILED  
U.S. DISTRICT COURT  
2006 AUG 31 P 2:01  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

---

**In The United States District Court  
District of Utah, Central Division**

---

UNITED STATES,

Plaintiff,

-v-

WILLIAM RICHARD MANSELL,

Defendant.

**ORDER ON MOTION TO CONTINUE  
TRIAL DATE AND EXCLUDE TIME  
FROM SPEEDY TRIAL ACT  
COMPUTATION,  
18 U.S.C. § 3160**

Case No. 2:05CR538

JUDGE DAVID SAM

---


Based upon the motion of the Defendant to continue the trial date in this matter and for good cause appearing,

**IT IS HEREBY ORDERED:**

1. The trial currently set for August 29, 2006, is stricken;
2. For the reasons stated in the Defendant's motion, the Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the Defendant in a speedy trial and therefore, the time from the stricken trial date to the Change of Plea hearing date is excluded from the computation of time required under the Speedy Trial Act, pursuant to 18 U.S.C. § 3161(h)(8)(A).

DATED this 31<sup>st</sup> day of August, 2006.

BY THE COURT:

  
\_\_\_\_\_  
Judge David Sam  
United States District Court

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of August, 2006, I mailed a true and correct copy of the foregoing Defendant's **ORDER ON MOTION TO CONTINUE TRIAL DATE AND EXCLUDE TIME FROM SPEEDY TRIAL ACT COMPUTATION, 18 U.S.C. § 3160** by First Class U.S. Mail or electronically to:

D. Loren Washburn  
Office of the United States Attorney  
185 South State Street, Suite 400  
Salt Lake City, UT 84111

s/ Rebecca C. Hyde  
Skordas, Caston & Hyde

# UNITED STATES DISTRICT COURT

Central

District of

Utah  
FILED  
DISTRICT COURT

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Bounchanh Phanthachith

Case Number: DUTX205CR000885-001

USM Number: 13513-081

Robert Steele

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment.

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §924(a)(2)	Felon in Possession of a Firearm		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/29/2006

Date of Imposition of Judgment

Signature of Judge

Dale A. Kimball

U.S. District Judge

Name of Judge

Title of Judge

Date

August 31, 2006

DEFENDANT: Bounchanh Phanthachith  
CASE NUMBER: DUTX205CR000885-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

24 months, to run concurrently with the sentence imposed in the Utah State Court, case 031902502.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be incarcerated in FCI Sheridan, OR or Lompoc, CA to facilitate family visitation. The Court STRONGLY recommends that the defendant, as a resident alien who will not be deported to Laos, be given educational opportunities and drug abuse treatment.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Bounchanh Phanthachith  
CASE NUMBER: DUTX205CR000885-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :  
  
36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Bounchanh Phanthachith  
CASE NUMBER: DUTX205CR000885-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall submit to drug/alcohol testing as directed by the U. S. Probation Office and pay a one-time \$115 fee to partially defray the costs of collection and testing. If testing reveals illegal drug use or excessive and/or illegal consumption of alcohol, such as alcohol-related criminal or traffic offenses, the defendant shall participate in drug and/or alcohol abuse treatment under a copayment plan as directed by the United States Probation Office and shall not possess or consume alcohol during the course of treatment, nor frequent business where alcohol is the chief item of order.
2. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the United States Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.



## CRIMINAL MONETARY PENALTIES

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Bounchanh Phanthachith  
CASE NUMBER: DUTX205CR000885-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

SNELL & WILMER, L.L.P.  
Bryon J. Benevento (5254)  
Matthew M. Boley (8536)  
15 West South Temple, Ste. 1200  
Salt Lake City, UT 84101  
Phone: (801) 257-1900  
Fax: (801) 257-1800

LATHAM & WATKINS, LLP  
Steven C. Cherny, *Pro Hac Vice*  
885 Third Avenue, Ste. 1000  
New York, NY 10022  
Phone: (212) 906-1200  
Fax: (212) 751-4864

Maximilian A. Grant, *Pro Hac Vice*  
Katharine R. Saunders, *Pro Hac Vice*  
555 Eleventh Street, N.W., Ste. 1000  
Washington, D.C. 20004  
Phone: (202) 637-2200  
Fax: (202) 637-2201

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

WAVETRONIX, LLC,

Plaintiff,

v.

EIS ELECTRONIC INTEGRATED  
SYSTEMS, INC.,

Defendant.

**~~PROPOSED~~ ORDER RE  
NOTICE OF REMOVAL OF  
COUNSEL FROM SERVICE LIST**

Civil Action No. 2:05 CV 00073

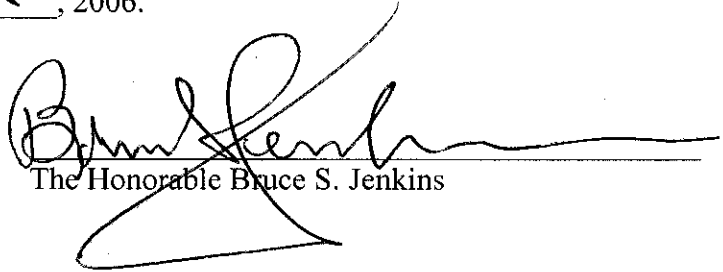
Judge Bruce S. Jenkins

Based upon the Notice of Removal of Counsel from Service List, it is hereby ordered that Dutch Chung may withdraw as counsel for Defendants EIS Electronic Integrated

RECEIVED  
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OFFICE OF U.S. DISTRICT JUDGE  
BRUCE S. JENKINS  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

Systems, Inc., and that his name be removed from the CM/ECF System and all service lists in the above entitled matter.

DATED this 31 day of August, 2006.



The Honorable Bruce S. Jenkins

***Prepared and Submitted By:***

Brett P. Johnson (7900)  
Troy L. Booher (9419)  
Emily V. Smith (10212)  
SNELL & WILMER  
15 West South Temple, Suite 1200  
Gateway Tower West  
Salt Lake City, Utah 84101-1004  
Telephone: (801) 257-1900  
Facsimile: (801) 257-1800

*Attorneys for Plaintiff The Bank of New York, Trustee*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF UTAH**

THE BANK OF NEW YORK COMPANY, INC.,  
TRUSTEE, a New York corporation,

Plaintiff,

v.

ALEGRA FINANCIAL, L.L.C., a Colorado  
limited liability company, and DOES 2 – 10,

Defendants.

\*\*\*\*\*

ALEGRA FINANCIAL, L.L.C., a Colorado  
limited liability company,

Counterclaimant and Third-Party  
Plaintiff,

v.

THE BANK OF NEW YORK COMPANY,  
INC., TRUSTEE, a New York corporation, and  
DOES I through V,

Counterclaim and Third-Party  
Defendants.

**RECEIVED**

FILED  
U.S. DISTRICT COURT

AUG 31 2006

2006 SEP -1 P 2: 04

OFFICE OF U.S. DISTRICT JUDGE  
BRUCE S. JENKINS

DISTRICT OF UTAH

DEPUTY CLERK


**ORDER FOR EXTENSION  
OF TIME**

Civil No. 2:05cv00401 BSJ

Judge Bruce Jenkins

Pursuant to the *Joint Motion and Stipulation for Extension of Time* filed by Bank of New York Company, Inc. ("BONY") and Alegra Financial, L.L.C. ("Alegra") and good cause appearing, IT IS HEREBY ORDERED that Plaintiff and Third-Party Defendant The Bank of New York Company, Inc. will have up to and including September 15, 2006 in which to respond to Alegra Financial, L.L.C.'s Motion for Summary Judgment.

DATED this 31 day of August, 2006.

  
\_\_\_\_\_  
Bruce S. Jenkins  
DISTRICT COURT JUDGE

*Approved as to Form:*

ANDERSON & KARRENBURG

/s/ Heather M. Sneddon  
Stephen W. Dougherty  
Heather M. Sneddon  
(signed by Emily V. Smith with  
permission of Heather M. Sneddon)

CERTIFICATE OF SERVICE

I hereby certify that on this 30<sup>th</sup> day of August, 2006, I electronically filed the foregoing proposed Order for Extension of Time attached to Joint Motion and Stipulation for Extension of Time with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the following:

Steven W. Dougherty  
Heather Sneddon  
ANDERSON & KARRENBURG  
50 W. Broadway, #700  
Salt Lake City, UT 84101  
sdougherty@aklawfirm.com  
hsneddon@aklawfirm.com

/s/Emily V. Smith



IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

FILED  
U.S. DISTRICT COURT

2006 SEP -1 A 11: 4

DISTRICT OF UTAH

BY: *CL*  
DEPUTY CLERK

QWEST CORPORATION,

Plaintiff,

vs.

UTAH TELECOMMUNICATIONS OPEN  
INFRASTRUCTURE AGENCY, an  
interlocal cooperative governmental agency;  
the CITY OF RIVERTON, a Utah municipal  
corporation; and TETRA TECH  
CONSTRUCTION SERVICES INC., a  
Colorado corporation,

Defendants.

ORDER DENYING UTOPIA'S MOTION  
FOR SUMMARY JUDGMENT WITHOUT  
PREJUDICE

Case No. 2:05-CV-00471 PGC

In this lawsuit, plaintiff Qwest Corporation requests declaratory judgment that 47 U.S.C. § 253, the Federal Telecommunications Act ("FTA"), preempts Utah Code Ann. § 59-12-104(2) and Article XIII, § 3 of the Utah Constitution because they extend tax-exempt status to defendant UTOPIA and thereby allow UTOPIA to offer telecommunications services at low prices. Qwest also claims many of UTOPIA's agreements with its member cities violate provisions of the Utah Telecom Act, particularly Utah Code Ann. § 10-18-302 to -303. Defendant UTOPIA has moved

for summary judgment on all of Qwest's claims. The court denies this motion, without prejudice.

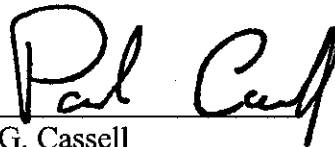
UTOPIA filed its summary judgment motion on July 11, 2006, nearly three months prior to the end of discovery and prior to the dispositive motion deadline.<sup>1</sup> In its memorandum in opposition to UTOPIA's motion for summary judgment, Qwest repeatedly complained of outstanding discovery requests and the need to develop the factual record through further discovery.<sup>2</sup> And in its reply, UTOPIA referred to information it obtained only after filing its motion for summary judgment.<sup>3</sup> The court believes completion of discovery may resolve some disputed issues of fact and allow the parties to present a more complete record upon which the court can determine whether summary judgment is appropriate.

The court, therefore, DENIES UTOPIA's motion for summary judgment, without prejudice [#118] to the filing of such motions after the close of discovery on October 2, 2006, and before the dispositive motion deadline of November 7, 2006.

SO ORDERED.

DATED this \_\_\_\_ day of September, 2006.

BY THE COURT:



Paul G. Cassell  
United States District Judge

---

<sup>1</sup>See Docket No. 118.

<sup>2</sup>See Qwest's Memo. in Opposition to Sum. Judg., Docket No. 131, at 6 n.2, 13, 14, 15, 17, 35 (August 14, 2006).

<sup>3</sup>See UTOPIA's Reply Memo. in Support of Sum. Judg., Docket No. 140, at 621 (August 31, 2006).

DAVID C. BOHRER (pro hac vice)  
MORGAN, LEWIS & BOCKIUS LLP  
2 Palo Alto Square, 3000 El Camino Real, Suite 700  
Palo Alto, CA 94306  
Tel: 650.843.4000  
Fax: 650.843.4001

ANDREW H. STONE (USB# 4921)  
JONES, WALDO, HOLBROOK & McDONOUGH PC  
170 So. Main Street, Suite 1500  
Salt Lake City, UT 84101-1644  
Tel: 801.521.3200  
Fax: 801.328.0537

Attorneys for Defendants and Counterclaimants  
TYCO HEALTHCARE GROUP, LP  
TYCO INTERNATIONAL (US), INC.

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH - CENTRAL DIVISION

CLINICAL INNOVATIONS, LLC, dba  
CLINICAL INNOVATIONS, INC., a  
Delaware Limited Liability company,

Plaintiff,

vs.

TYCO HEALTHCARE GROUP, LP, a  
Delaware corporation, TYCO  
INTERNATIONAL LTD., a Bermuda based  
corporation, TYCO INTERNATIONAL (US),  
INC., a Massachusetts corporation,

Defendants.

AND RELATED CROSS ACTIONS.

Case No. 2:05CV00633 BSJ

(Consolidated with 2:06cv06)

~~PROPOSED~~ ORDER GRANTING  
UNOPPOSED MOTION TO MOVE  
SUMMARY JUDGMENT REPLY  
DEADLINE

Judge Bruce S. Jenkins

RECEIVED

FILED


U.S. DISTRICT COURT

SEP 11 2006

2006 SEP -1 P 2: 55  
OFFICE OF U.S. DISTRICT JUDGE

BRUCE S. JENKINS

DISTRICT OF UTAH

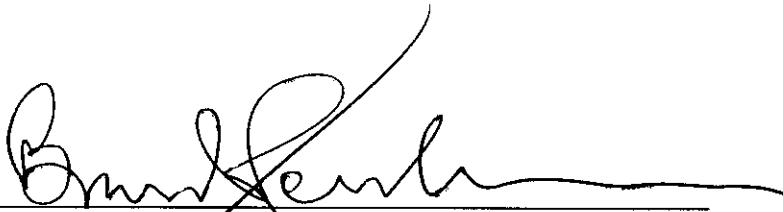
BY:  DEPUTY CLERK

This cause coming on Defendants Tyco Healthcare Group, LP and Tyco International (US), Inc.'s unopposed motion to move their summary judgment reply deadline.

IT IS HEREBY ORDERED THAT the Motion is GRANTED and the deadline for Defendants to file their reply memorandum in support of their Motion for Summary Judgment of Non-Infringement is extended until and including September 12.

**IT IS SO ORDERED.**

Dated: 9/11/06

  
\_\_\_\_\_  
HON. BRUCE S. JENKINS  
JUDGE OF THE UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

---

KENNY RAY EVON,	)	
	)	
Plaintiff,	)	Case No. 2:05-CV-1072 DAK
	)	
v.	)	District Judge Dale Kimball
	)	
MICHEL MILLARD et al.,	)	<b>ORDER TO SHOW CAUSE</b>
	)	
Defendants.	)	Magistrate Judge David Nuffer

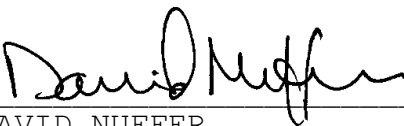
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The last mail item the Court sent to Plaintiff--dated August 22, 2006--has been returned, marked, "RETURN TO SENDER NOT AT THIS ADDRESS." The Court has not heard from Petitioner since March 3, 2006.

IT IS THUS ORDERED that, within thirty days, Plaintiff must show cause why his complaint should not be dismissed for failure to prosecute.<sup>1</sup>

DATED this 1st day of September, 2006.

BY THE COURT:

  
\_\_\_\_\_  
DAVID NUFFER  
United States Magistrate Judge

---

<sup>1</sup>See Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31, 82 S. Ct. 1386, 1388-89 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003).

FILED  
U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

7000 SEP -1 P 2:23

DISTRICT OF UTAH

BY:   
DEPUTY CLERK

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

JOSEPH FLEMING PORTER  
Defendant.

ORDER GRANTING EXTENSION  
OF TIME TO FILE RESPONSE TO  
DEFENDANT'S BRIEF  
REGARDING MOTION TO  
SUPPRESS

Case No. 2:06-CR-119 TS

For good cause, and based on the stipulation of counsel for defendant, the Court grants the government's motion and extends the time for filing its brief to September 22, 2006.

DATED September 1, 2006.

BY THE COURT

  
TED STEWART  
United States District Judge

FILED  
U.S. DISTRICT COURT  
IN THE UNITED STATES DISTRICT COURT

2006 AUG 31 P 2:01

DISTRICT OF UTAH, CENTRAL DIVISION

DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENITO ESQUI BEL,

Defendant.

BY: DEPUTY CLERK  
**SCHEDULING ORDER**

Case No. 2:06-CR-437 DS

This case came on for initial appearance on Wednesday, August 23, 2006 at 9:30 a.m. before Chief United States Magistrate Judge Samuel Alba. The defendant, Benito Esquibel, was represented by L. Clark Donaldson, Assistant Federal Defendant, and the government was represented by Assistant United States Attorney Eric Benson. The government advised Chief Magistrate Alba that it had provided discovery to Mr. Donaldson prior to the hearing and, accordingly, the Chief Magistrate ordered that the defendant was to file pretrial motions on or before September 22, 2006. The parties thereafter contacted the chambers of this Court to obtain other applicable deadlines. Based upon the prior order of the Chief Magistrate, consultation with its calendar and stipulation of the parties;

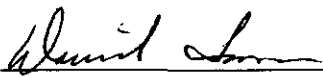
IT IS HEREBY ORDERED as follows:

1. Trial is set for Tuesday, October 31, 2006 at 8:30 a.m. for three days.
2. The government has provided discovery pursuant to the open file policy and will continue to provide any new discovery materials in an ongoing fashion.

3. The defendant must file any pretrial motions on or before Friday, September 22, 2006.
4. The parties are to notify the Court by Tuesday, October 24, 2006 as to whether the case is settled.
5. All parties must file both agreed upon and disputed jury instructions by Friday, October 27, 2006.
6. Proposed voir dire questions must be filed by Friday, October 27, 2006.

DATED this 31<sup>st</sup> day of August 2006.

BY THE COURT:

  
\_\_\_\_\_  
HONORABLE DAVID SAM  
United States District Court Judge



**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

The prosecution has an open file policy.

Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

Counsel must have all exhibits premarked by the clerk for the district judge before trial.

If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

## United States District Court - 1 2006

CENTRAL DISTRICT OF UTAH

MARKUS B. ZIMMER, CLERK  
BY  
DEPUTY CLERKUNITED STATES OF AMERICA  
V.ORDER SETTING  
CONDITIONS OF RELEASE

ALEV ELLINGTON

Case Number: 2:06-CR-447 TC

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified)

PLACE

on

DATE AND TIME

## Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- ( ) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

dollars (\$ )

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

### Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- ☐ (6) The defendant is placed in the custody of:  
(Name of person or organization)  
(Address)  
(City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: \_\_\_\_\_  
Custodian or Proxy

- ☒ (7) The defendant shall:
- ☒ (a) maintain or actively seek employment.
  - ☐ (b) maintain or commence an educational program.
  - ☒ (c) abide by the following restrictions on his personal associations, place of abode, or travel:  
maintain residence at the address reported to PTS. No change without prior permission of PTS.
  - ☐ (d) avoid all contact with the following named persons, who are considered either alleged victims or potential witnesses:
  - ☒ (e) report on a regular basis to the supervising officer as directed.
  - ☐ (f) comply with the following curfew:
  - ☐ (g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
  - ☐ (h) refrain from excessive use of alcohol.
  - ☐ (i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner.
  - ☐ (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
  - ☐ (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
  - ☐ (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
  - ☐ (m) execute a bail bond with solvent sureties in the amount of \$
  - ☐ (n) return to custody each (week)day as of \_\_\_\_\_ o'clock after being released each (week)day as of \_\_\_\_\_ o'clock for employment, schooling or the following limited purpose(s):
  - ☒ (o) surrender any passport to Clerk of Court.
  - ☐ (p) obtain no passport
  - ☐ (q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment, if deemed advisable by supervising officer.
  - ☐ (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
  - ☐ (s) submit to an electronic monitoring program as directed by the supervising officer.
  - ☒ (t) no travel outside the State of Utah without the prior permission of PTS. No travel outside the United States without leave of the Court.

**Advice of Penalties and Sanctions**

TO THE DEFENDANT:

**YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:**

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

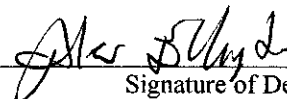
If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

**Acknowledgment of Defendant**

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant

Address

City and State

Telephone

**Directions to the United States Marshal**

- (☒) The defendant is ORDERED released after processing.
- ( ) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: September 1, 2006s/ David Nuffer

Signature of Judicial Officer

Magistrate Judge David Nuffer

Name and Title of Judicial Officer

United States District Court  
for the District of Utah

**Request and Order for Modifying Conditions of Supervision  
With Consent of the Offender**

(Waiver of hearing attached)

Name of Offender: **Ira Kelly**

Docket Number: **2:06-CR-00498-001-DS**

Name of Judicial Officer: **Honorable David Sam**  
**Senior United States District Judge**

Date of Original Sentence: **March 31, 2003**

Original Offense: **Burglary on Indian Reservation**

Original Sentence: **22 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release** Supervision Began: **July 25, 2004**

**PETITIONING THE COURT**

☒ To modify the conditions of supervision as follows:

*The defendant shall participate in drug and/or alcohol abuse treatment under a copayment plan, as directed by the United States Probation Office, and shall not possess or consume alcohol during the course of treatment nor frequent businesses where alcohol is the chief item of order.*

**CAUSE**

On June 8, 2006, the defendant was arrested by the Bureau of Indian Affairs and charged with Driving Under the Influence of Alcohol and Disorderly Conduct. The defendant was subsequently convicted of these charges. The defendant is currently housed at the Cornell Community Corrections Center with the intent to attend intensive outpatient alcohol treatment.

I declare under penalty of perjury that the foregoing is true and correct

  
Anrico Delray, U.S. Probation Officer

Date: August 25, 2006

**THE COURT ORDERS:**

- ☒ The modification of conditions as noted above  
☐ No action  
☐ Other

  
Honorable David Sam  
Senior United States District Judge

Date: 8/31/06

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
PROBATION AND PRETRIAL SERVICES OFFICE**

**WAIVER OF RIGHT TO HEARING PRIOR TO  
MODIFICATION OF CONDITIONS OF SUPERVISION**

I have been advised by United States Probation Officer Anrico Delray that he has submitted a petition and report to the Court recommending that the Court modify the conditions of my supervision in Case No. 2:06-CR-00498-001-DS. The modification would be:

***The defendant shall participate in drug and/or alcohol abuse treatment under a copayment plan, as directed by the United States Probation Office, and shall not possess or consume alcohol during the course of treatment nor frequent businesses where alcohol is the chief item of order.***

I understand that should the Court so modify my conditions of supervision, I will be required to abide by the new condition as well as all conditions previously imposed. I also understand the Court may issue a warrant and revoke supervision for a violation of the new condition as well as those conditions previously imposed by the Court. I understand I have a right to a hearing on the petition and to prior notice of the date and time of the hearing. I understand that I have a right to the assistance of counsel at that hearing.

Understanding all of the above, I hereby waive the right to a hearing on the probation officer's petition, and to prior notice of such hearing. I have read or had read to me the above, and I fully understand it. I give full consent to the Court considering and acting upon the probation officer's petition to modify the conditions of my supervision without a hearing. I hereby affirmatively state that I do not request a hearing on said petition.

***Ira Kelly***

Ira Kelly

***8-28-06***

Date



Witness: Anrico Delray  
United States Probation Officer

# United States District Court

CENTRAL DISTRICT OF UTAH

FILED IN UNITED STATES DISTRICT  
COURT DISTRICT OF UTAH  
SEP 01 2006  
By MARKUS B. ZIMMER, Clerk  
DEPUTY CLERK

UNITED STATES OF AMERICA  
V.

**Amended ORDER SETTING  
CONDITIONS OF RELEASE**

Thi Tho Nguyen

Case Number: 2:06cr550 PGC

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed  
as directed. The defendant shall next appear at (if blank, to be notified)

PLACE

on

DATE AND TIME

## **Release on Personal Recognizance or Unsecured Bond**

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- ( ) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

dollars (\$ )

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

### Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- ☐ (6) The defendant is placed in the custody of:  
(Name of person or organization)  
(Address)  
(City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: \_\_\_\_\_  
Custodian or Proxy

- ☒ (X) (7) The defendant shall:
- ☒ (a) maintain or actively seek employment.
  - ☐ (b) maintain or commence an educational program.
  - ☒ (c) abide by the following restrictions on his personal associations, place of abode, or travel:
  - ☒ (d) avoid all contact with the following named persons, who are considered either alleged victims or potential witnesses:
  - ☒ (X) (e) report on a regular basis to the supervising officer as directed.
  - ☐ (f) comply with the following curfew:
  - ☒ (g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
  - ☐ (h) refrain from excessive use of alcohol.
  - ☐ (i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner.
  - ☐ (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
  - ☐ (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
  - ☐ (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
  - ☐ (m) execute a bail bond with solvent sureties in the amount of \$
  - ☐ (n) return to custody each (week)day as of \_\_\_\_\_ o'clock after being released each (week)day as of \_\_\_\_\_ o'clock for employment, schooling or the following limited purpose(s):
  - ☒ (o) surrender any passport to
  - ☒ (p) obtain no passport
  - ☐ (q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment, if deemed advisable by supervising officer.
  - ☐ (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
  - ☐ (s) submit to an electronic monitoring program as directed by the supervising officer.
  - ☒ (X) (t) dft is allowed to reside in the San Jose area with her daughter. Dft travel is restricted to San Jose and Utah for trial purposes.



**Advice of Penalties and Sanctions**

TO THE DEFENDANT:

**YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:**

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

**Acknowledgment of Defendant**

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

Thong Nguyen  
Signature of Defendant

5079 Blossom Ave.  
Address

San Jose, Calif.  
City and State      95123      Telephone (408) 391-8502  
daughter:  
Tu-Lan Trinh.

**Directions to the United States Marshal**

- ( ) The defendant is ORDERED released after processing.
- ( ) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: 9/1/06

Brooke E. Wells  
Signature of Judicial Officer

Magistrate Judge Brooke Wells

Name and Title of Judicial Officer

FILED  
DISTRICT COURT

2006 AUG 31 P 1:43

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUDY SHANE ROMERO,

Defendant.

Case No.: 2:06-CR-597 DAK

:  
: PROTECTIVE ORDER  
: REGARDING LIMITED  
: DISCLOSURE OF DISCOVERY

:  
: Judge Dale A. Kimball  
: Magistrate Judge David O. Nuffer

---

Based on the Stipulated Request for Protective Order Regarding Limited  
Disclosure of Discovery, and good cause appearing, the Court issues the following  
Protective Order:

(1) Defense counsel will not provide a hard copy of the discovery to Defendant,  
which contains victim information, including but not limited to victims' names,  
addresses, dates of birth, social security numbers, driver's license numbers, financial

institutions wherein victims have accounts, account numbers, and copies of personal checks, etc.

(2) To the extent defense counsel reviews this information with Defendant, defense counsel will ensure that Defendant makes no records of the sensitive personal and/or financial information noted above.

IT IS SO ORDERED.

August 31, 2006



---

David O Nuffer  
United States Magistrate Judge

**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

The prosecution has an open file policy.

Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

Counsel must have all exhibits premarked by the clerk for the district judge before trial.

If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.

**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

The prosecution has an open file policy.

Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

Counsel must have all exhibits premarked by the clerk for the district judge before trial.

If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.

# United States District Court

FILED IN UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

SEP - 1 2006

CENTRAL DISTRICT OF UTAH

MARKUS B. ZIMMER, CLERK  
BY \_\_\_\_\_  
DEPUTY CLERKUNITED STATES OF AMERICA  
v.**ORDER SETTING  
CONDITIONS OF RELEASE**

JUSTIN JOHNSON

Case Number: 2:06-CR-607 PGC

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified) \_\_\_\_\_

PLACE

on \_\_\_\_\_

DATE AND TIME

**Release on Personal Recognizance or Unsecured Bond**

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- ( ) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

\_\_\_\_\_ dollars (\$ ) \_\_\_\_\_

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

**Additional Conditions of Release**

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- ( ) (6) The defendant is placed in the custody of:  
(Name of person or organization)  
(Address)  
(City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: \_\_\_\_\_

Custodian or Proxy

(✓)(7) The defendant shall:

- (✓)(a) maintain or actively seek employment.
- ( ) (b) maintain or commence an educational program.
- (✓)(c) abide by the following restrictions on his personal associations, place of abode, or travel:  
maintain residence at the address reported to PTS. No change without prior permission of PTS.
- ( ) (d) avoid all contact with the following named persons, who are considered either alleged victims or potential witnesses:
- (✓)(e) report on a regular basis to the supervising officer as directed. PTS to immediately report any missed contact(s).
- ( ) (f) comply with the following curfew:
- ( ) (g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
- (✓)(h) refrain from any use of alcohol, if USPO finds it necessary.
- (✓)(i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner, if USPO finds the condition necessary.
- ( ) (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
- ( ) (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
- ( ) (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
- ( ) (m) execute a bail bond with solvent sureties in the amount of \$
- ( ) (n) return to custody each (week)day as of \_\_\_\_\_ o'clock after being released each (week)day as of \_\_\_\_\_ o'clock for employment, schooling or the following limited purpose(s):
- ( ) (o) surrender any passport to
- ( ) (p) obtain no passport
- (✓)(q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment, if deemed advisable by supervising officer.
- ( ) (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
- ( ) (s) submit to an electronic monitoring program as directed by the supervising officer.
- ( ) (t) no travel outside the State of Utah without prior permission of PTS.
- (✓)(u) no contact with children under the age of 18 years without adult supervision.
- (✓)(v) no access nor use of the internet.

**Advice of Penalties and Sanctions**

TO THE DEFENDANT:

**YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:**

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

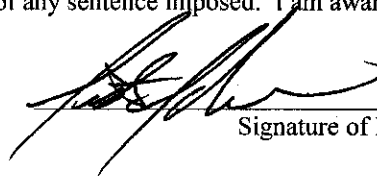
If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

**Acknowledgment of Defendant**

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant

Address

City and State

Telephone

**Directions to the United States Marshal**

- (☒) The defendant is ORDERED released after processing.
- ( ) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: September 1, 2006s/ David Nuffer

Signature of Judicial Officer

Magistrate Judge David Nuffer

Name and Title of Judicial Officer



SUE ELLEN WOOLDRIDGE  
Assistant Attorney General  
BARCLAY SAMFORD  
Trial Attorney  
United States Department of Justice  
Environment and Natural Resources Division  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1475

BRETT TOLMAN  
United States Attorney  
CARLIE M. CHRISTENSEN  
Assistant United States Attorney (USB #0633)  
185 South State Street, #400  
Salt Lake City, Utah 84111  
(801) 524-5682

Attorneys for the Federal Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

OTTO JONES, an individual, RICK TAYLOR,  
an individual, and BRAD DAVIS as an individual,  
Plaintiffs,

v.

NORMAN Y. MINETA, Secretary, Department  
Of Transportation, J. RICHARD CAPKA, Acting  
Administrator, Federal Highway Administration,  
WALTER WAIDELICH, Division Administrator,  
Federal Highway Administration, Utah Division,  
and JOHN NJORD, Executive Director,  
Utah Department of Transportation,  
Defendants,

FRIENDS OF 114TH SOUTH PROJECT  
ALTERNATIVE 4,  
Defendant/Intervenor.

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AUG 31 2006

OFFICE OF U.S. DISTRICT JUDGE  
BRUCE S. JENKINS

FILED  
U.S. DISTRICT COURT

2006 AUG 31 P 5:22

DISTRICT OF UTAH

BY: DEPUTY CLERK

~~PROPOSED~~ ORDER  
GRANTING SECOND  
STIPULATION TO  
AMEND SCHEDULE

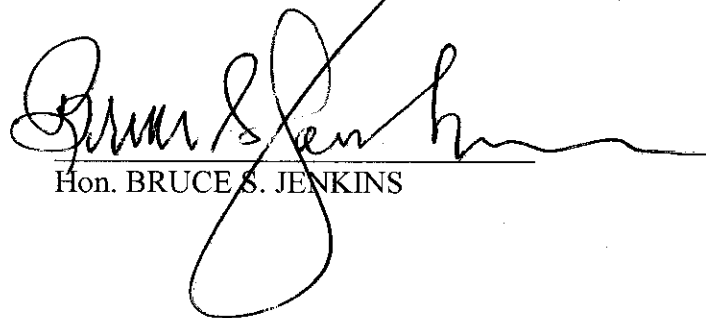
Judge Bruce S. Jenkins  
Case Number: 2:06CV00084 BSJ

The Court has reviewed the Parties' second stipulation to amend schedule. Based on the foregoing motion and good cause appearing, the Court hereby approves the motion and orders that the schedule to be modified as follows:

1. Plaintiffs' consolidated brief in opposition to Defendants' Motion to Strike and in support of Plaintiffs' Motion to Supplement shall be filed electronically with the Court on September 11, 2006.
2. Defendants' consolidated reply in support of their Motion to Strike and brief in opposition to Plaintiffs' Motion to Supplement shall be filed electronically with the Court on September 18, 2006.
3. Plaintiffs' reply in support of their Motion to Supplement shall be filed electronically with the Court no later than 12:00 PM (noon) on September 21, 2006.
4. Oral argument on the Defendants' Motion to Strike and Plaintiffs' Motion to Supplement shall take place Monday September 25 at 10:30 AM.
5. Defendants shall file their responsive briefs on the merits no later than October 25, 2006.
6. Plaintiffs shall file their reply brief on the merits no later than November 15, 2006.
7. Oral argument on the merits of the parties' <sup>as reset</sup> briefs shall take place Thursday, November 30, at 9:30 AM.

IT IS SO ORDERED.

8/31/06  
DATED

  
Hon. BRUCE S. JENKINS

Richard D. Burbidge (#0492)  
Jefferson W. Gross (#8339)  
Andrew J. Dymek (#9277)  
**BURBIDGE & MITCHELL**  
215 South State Street, Suite 920  
Salt Lake City, Utah 84111  
Telephone: (801) 355-6677  
Facsimile: (801) 355-2341

Jonathan W. Emord (admitted *pro hac vice*)  
Andrea G. Ferrenz (admitted *pro hac vice*)  
**EMORD & ASSOCIATES, P.C.**  
1800 Alexander Bell Drive  
Suite 200  
Reston, Virginia 20191  
Telephone: (202) 466-6937  
Facsimile: (202) 466-6938

FILED  
DISTRICT COURT  
2006 AUG 31 P 5:15  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

**EMAX ENTERPRISES, LTD.,**

Plaintiff,

v.

**EDWARD VON ESCHENBACH**, in his official  
capacity as Acting Commissioner of the U.S.  
Food and Drug Administration;

**U.S. FOOD AND DRUG ADMINISTRATION;**

**MICHAEL LEAVITT**, in his official capacity  
as the Secretary of the U.S. Department of  
Health and Human Services;

**U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES;**

**DEBORAH J. SPERO**, in her official capacity  
as Acting Commissioner of the U.S. Customs  
and Border Protection;

**U.S. CUSTOMS AND BORDER  
PROTECTION;**

and

**THE UNITED STATES OF AMERICA,**

Defendants.

NOTICE OF VOLUNTARY  
DISMISSAL

**ORDER**

Civil No. 2:06CV00334

Judge Dale A. Kimball

**SO ORDERED**

*[Signature]*  
**DALE A. KIMBALL**  
United States District Judge

Date 8-24-2006

PLEASE TAKE NOTICE that Plaintiff EMAX ENTERPRISES, Ltd., hereby voluntarily dismisses this action, without prejudice, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

DATED this 23<sup>rd</sup> day of August, 2006.

**BURBIDGE & MITCHELL**  
and  
**EMORD & ASSOCIATES**

By: /s/  
Andrew J. Dymek  
Attorneys for Plaintiff EMAX  
Enterprises, Ltd.

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RECEIVED  
JUL 27 2006  
FEDERAL COURT  
DISTRICT OF COLUMBIA

**TERRY M. PLANT, #2610**  
**PLANT, CHRISTENSEN & KANELL**  
Attorneys for Defendant City of South Salt Lake  
136 East South Temple, Suite 1700  
Salt Lake City, Utah 84111  
Telephone: (801) 363-7611

---

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

---

ERIN V. NIELSON,	)	
	)	<b>PROTECTIVE ORDER</b>
Plaintiff,	)	
	)	
v.	)	
	)	
THE CITY OF SOUTH SALT LAKE and	)	Civil No: 2:06-cv-335
OFFICER GARY JASON BURNHAM,	)	
	)	Judge Dale A. Kimball
Defendants	)	

---

It being represented to the Court that THE CITY OF SOUTH SALT LAKE has discoverable documentation which involves confidential Police Department Internal Affairs materials and/or information and confidential personnel materials and/or information belonging to THE CITY OF SOUTH SALT LAKE; and

It being represented to the Court that THE CITY OF SOUTH SALT LAKE is willing to provide discoverable documents for inspection and review under a Protective Order upon the hereinafter stated terms and conditions; and

That the parties hereto agree to be bound by the terms of this agreement, however the parties specifically reserve the right to challenge the applicability of this agreement to specific documents once the documents are received. However, no documents will be

disseminated in violation of this order unless there is an agreement of counsel or court order allowing such dissemination.

It being represented to the Court that both parties are in agreement as to the terms of the said Protective Order; therefore,

IT IS HEREBY ORDERED that:

1. THE CITY OF SOUTH SALT LAKE has produced documents that it designates as “Confidential” to the plaintiff. These documents are also included within the scope of this Order. Any disclosures of these documents on or after the date of this Order shall be done in full compliance with the terms and provisions of this Order.

2. THE CITY OF SOUTH SALT LAKE will disclose additional documents that it designates “Confidential and Proprietary” to the plaintiff and her attorney, only pursuant to this Order and under the conditions that follow.

3. Any and all of the aforesaid materials disclosed by THE CITY OF SOUTH SALT LAKE and the contents thereof shall be maintained in confidence by counsel for the plaintiff and counsel for the defendant. The aforesaid materials shall not be disseminated or released without the prior consent of counsel for THE CITY OF SOUTH SALT LAKE which consent will not be unreasonably withheld. Counsel for the CITY OF SOUTH SALT LAKE acknowledges that plaintiff’s counsel may have legitimate need for more than one working copy of the aforesaid materials. Plaintiff’s counsel agrees, however, to inform counsel for THE CITY OF SOUTH SALT LAKE of the number of copies which will be made to account for all such copies and to

return all such copies of the aforesaid materials to THE CITY OF SOUTH SALT LAKE in accordance with paragraph 9 hereof at the conclusion of the lawsuit.

4. Any and all of the aforesaid materials disclosed by THE CITY OF SOUTH SALT LAKE and the contents thereof shall be used only in connection with the above-captioned matter and shall not be used for any other purpose whatsoever.

5. No person who examines any document produced pursuant to this Order shall disseminate orally, in writing, or by any other means, the documents or the information contained therein, to any person not also authorized to examine documents under the terms of this Order.

6. Counsel for plaintiff may permit an expert or experts hired by the plaintiff to review the documents subject to this Protective Order, but counsel for the plaintiff must first obtain from said experts a written statement confirming the expert's agreement to comply with every element of this Protective Order. Said experts shall agree that the documents and the contents thereof shall not be disclosed to any other person or entity and said documents shall not be disseminated or released by any means. Said experts shall further agree that said documents shall be used only in connection with the above-captioned matter and shall not be used for any other purpose whatsoever. Any document provided to experts must be returned to THE CITY OF SOUTH SALT LAKE within thirty days of the conclusion of the above-captioned litigation pursuant to the terms of paragraph 8 below.

7. Notwithstanding the foregoing provisions, this Order shall be without prejudice to the right of any party to challenge the propriety of discovery on any grounds.

8. Notwithstanding the foregoing provisions, this Order shall not restrict in any manner the right of any party to offer or use as evidence at the trial of this action any of the documents subject to this Protective Order and nothing contained herein shall be construed as a waiver of any objection which might be raised as to the admissibility of any evidentiary material.

9. At the conclusion of this lawsuit by settlement, a jury verdict, nonsuit, dismissal, by judgment, order or otherwise, all of THE CITY OF SOUTH SALT LAKE'S materials, including any and all copies, or renditions made from the materials, shall be returned to the City of South Salt Lake within thirty (30) days.

10. A breach of the terms of this Order shall entitle THE CITY OF SOUTH SALT LAKE to appropriate sanctions, including but not limited to attorney's fees and costs incurred in the enforcement of this Order.

DATED this 1st day of September, 2006.

BY THE COURT:

  
DISTRICT COURT JUDGE

APPROVED AS TO FORM:

/s/ Alan W. Mortensen  
ALAN W. MORTENSEN  
DEWSNUP, KING, OLSEN  
Attorney for Plaintiff

/s/ Jerrald D. Conder  
JERRALD D. CONDER  
Attorney for Defendant Burnham



FILED  
U.S. DISTRICT COURT

2006 AUG 31 P 3: 05

DISTRICT OF UTAH

BY: DEPUTY CLERK

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*Attorneys for Lutron Electronics Co., Inc..*

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

LUTRON ELECTRONICS CO., INC.,

Plaintiff,

vs.

CONTROL4 CORPORATION,

Defendant.

**STIPULATED PROTECTIVE ORDER**

Case No. 2:06-CV-00401

Judge Dale A. Kimball

Lutron Electronics Co., Inc. ("Lutron") and Control4 Corporation ("Control4")  
(individually a "Party" and collectively the "Parties") jointly stipulate to entry by the Court of a

Protective Order as set forth below pursuant to Rule 26(c) of the Federal Rules of Civil Procedure.

Based on the stipulation of the Parties to the entry of the following Protective Order, pursuant to Fed.R.Civ.P. 26(c), and for good cause shown,

**IT IS HEREBY ORDERED THAT:**

1. Any document, or portion thereof, and any other form of evidence or discovery contemplated under Rules 26 through 36 of the Federal Rules of Civil Procedure which, in the good faith belief of a Party, contains any trade secret or non-public commercial information the disclosure of which will cause a clearly defined, specific, and serious injury to the producing Party, ("Confidential Information"), may be designated by a Party as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" as set forth below.

2. A Party may designate a document, thing, or information as "*CONFIDENTIAL*" if the Party has a good faith belief that it contains Confidential Information, or other information required by law or agreement to be kept confidential.

3. A Party may designate a document, thing, or information as "*HIGHLY CONFIDENTIAL*" if the Party has a good faith belief that it contains especially sensitive Confidential Information, in one of the following categories:

(a) pricing, costing, or customer identities, including information regarding profit margins, and cost structure including, but not limited to, nonpublic customer contracts and supplier contracts;

(b) financial information in tax returns, audited financial statements, internal profit and loss statements, business unit financial statements and discussions and

components thereof, including information provided to potential investors pursuant to nondisclosure agreements;

(c) technical information related to a potential product or product that has not been introduced into the marketplace, including any schematics, designs, flow-charts, diagrams, and any nonpublic documents regarding a Party's patent applications or patent strategy;

(d) nonpublic strategic information relating to the Party's confidential business strategy, including information regarding the Party's future products, markets, customers, and suppliers; or

(e) software code, including Hardware Description Language (HDL), source code files describing the hardware design of any ASIC or other chips, object code listings and similarly sensitive code ("Restricted Code"), and script code.

4. Confidential Information must be designated as follows:

(a) Documents or copies provided to the other Party in response to discovery requests containing Confidential Information may be designated by either Party as either "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" by marking the page or the pages on which the Confidential Information appears with the legend "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*".

(b) In lieu of marking the original of a document which contains Confidential Information prior to inspection, a Party may orally designate documents being produced for inspection as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" thereby making them subject to this Order. However, after the inspection, copies of such documents

ultimately produced must be marked "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" in order to make such copies subject to this Order.

(c) Confidential Information disclosed at a deposition, whether by testimony or use of a document or thing, may be designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" by clearly indicating on the record at the deposition the specific testimony containing Confidential Information that is to be made subject to the provisions of this Order. Any declaration on the record at a deposition shall be limited to the specific testimony that is "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*." General designations of entire depositions are not permitted.

Exhibits used at a deposition not designated on the record of the deposition as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" may thereafter be designated as such by notifying the other Party, in writing and serving a copy of the exhibit with the appropriate legend within ten (10) business days from the date of the deposition.

All undesignated deposition testimony shall be treated as "*CONFIDENTIAL*" from the date of the deposition until ten (10) business days from the receipt of the transcript of the deposition to allow a Party to determine whether all or part of a deposition not already designated on the record contains Confidential Information. Such Confidential Information, if any, may be designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" by notifying the other Party, in writing, within Ten (10) business days of the receipt of the transcript of such deposition.

If a timely designation is made, each Party shall attach a copy of any such written notification to the face of the deposition transcript and each copy thereof in its

possession, custody or control. If no designation is made within the Ten (10) business-day period, the deposition will be deemed to contain no Confidential Information under this Protective Order, other than as designated in accordance with this Order on the record at the deposition.

(d) A Party's Confidential Information contained in its responses to interrogatories, other discovery requests or responses, affidavits, briefs, memoranda or other papers filed with the Court, may be designated by prominently marking the first page and any page or pages of such documents containing Confidential Information with the legend "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" at the time of filing. Filing a document under seal has no effect on whether the parties will treat it as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*"; rather, the legends described in this paragraph shall determine such treatment. Copies of such items filed with the Court shall be maintained under seal pursuant to the provisions of Section 9 hereof. In addition to the usual service copy, the Party shall also serve a copy of the document with its "*HIGHLY CONFIDENTIAL*" information redacted.

(e) Tangible objects constituting or containing Confidential Information may be designated by affixing to the object or its container a label or tag marked "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*".

(f) Notwithstanding any other provisions of the Order, any Party may designate as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*," as might be appropriate under the terms of this Order, any testimony of and/or documents produced by that Party's agent, sales representative, or technical or business consultant.

(g) All Confidential Information not reduced to documentary, tangible, or physical form shall be designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" at the time the Party makes the disclosure. To retain the designation, the disclosing Party must confirm the designation in writing within ten (10) business days after such disclosure. Such written notification shall include an adequate identification or description of the intangible information that is being designated. Unless designated under the procedures set forth above, the produced or disclosed intangible information shall not be treated as Confidential Information under this Protective Order.

(h) Should any person or entity with access to documents, things or information designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" make copies, extracts, summaries, descriptions, projections and/or extrapolations of or from the documents, things or information designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" or any portions thereof, such copies, extracts, summaries, descriptions, projections and/or extrapolations shall be stamped "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" consistent with the original information and treated as Confidential Information pursuant to the provisions of this Stipulated Protective Order.

5. Confidential Information designated "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" may be disclosed and made available only as follows:

(a) Documents and information designated "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" may be disclosed to outside counsel of record and employees of such attorneys to whom it is necessary that the material be shown for purposes of this litigation; the chief legal counsel of each Party; court reporters and videographers

receiving or transcribing the documents, things or information in connection with official reporting (for example, at a deposition or a hearing); the Court; outside photocopy, imaging, database, graphics, design, computer simulation modeling, or exhibit production services, to the extent necessary to assist such counsel for purposes of this litigation.

(b) Documents and information designated "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" may be disclosed to experts and consultants retained or employed by a Party's attorney, including jury consultants and mock jury participants, who are not currently employed by any of the Parties or their competitors in the electronics or lighting industry. Such retained or employed experts and consultants agree not to use the Confidential Information for any purpose other than discovery in this litigation or assisting in the preparation of this matter for trial; provided, however, that (i) any such consultant/expert has signed an undertaking in the form of the attached Exhibit A and jury consultants or mock jury participants an undertaking in the form of the attached Exhibit B; (ii) a copy of (a) the signed undertaking, (b) a curriculum vitae of the proposed consultant/expert, (c) an identification of any past or present employment or consulting relationship with any Party or any related company, and (d) an identification of the other cases in which the consultant/expert has testified at trial or in deposition in the last four (4) years, is served on all counsel of record at least ten (10) calendar days before the confidential material is shown to such consultant/expert; and (iii) no Party objects in writing to such disclosure within those ten (10) calendar days. If any such objection is made, it must be in writing and state the reasons for such objection; thereafter, no disclosure of Confidential Information shall be made to that

consultant/expert as to material produced by the objecting Party until the matter is resolved by the Court or upon agreement of the parties. The provisions of Subsections 5(b)(ii)-(iii) do not apply to jury consultants and mock jury participants. Except as set forth in Subsection (c) below, in no event shall the Confidential Information be disclosed or made available to any officer, director, shareholder or employee of the Party receiving the Confidential Information or an entity related to or controlled by such Party.

(c) Documents and information designated "*CONFIDENTIAL*," may be disclosed to no more than three (3) persons in addition to those set forth in Section 5(a) and 5(b), including employees of the receiving Party, unless the Party producing the Confidential Information agrees in writing to enlarge the number or the Court orders enlargement of the same. Documents and information designated "*HIGHLY CONFIDENTIAL*" may be disclosed only to persons as set forth in Sections 5(a) and 5(b), and may not be disclosed to persons qualified to review information only under this Section 5(c).

(d) Any person in Subsection (c) above prior to receiving "*CONFIDENTIAL*" Information must be disclosed to the producing Party in writing. Each such individual shall sign an acknowledgement in the form of Exhibit A attached hereto. The names of such employees, along with their resumes and copies of their signed Exhibit A's, shall be provided to the producing Party, who shall have five (5) business days to object to disclosures under this Order to such persons. If any such objection is made, it must be in writing and state the reasons for such objection. Any individual identified pursuant to this Section who has executed Exhibit A shall be treated as subject to this Protective



Order. A willful violation of any material term of this Protective Order by any such individual may be punishable as contempt of court.

(e) Nothing in this Stipulated Protective Order prohibits either party from requesting additional protections or safeguards for the protection of source code, including any Hardware Description Language (HDL) source code files describing the hardware design of any ASIC or other chips, object code listings and similarly sensitive code ("Restricted Code"). The parties will meet-and-confer regarding any Restricted Code to be produced and either party may submit a motion to amend to this Stipulated Protective Order should that party conclude that additional protection for such Restricted Code is warranted.

6. If the Party to whom "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" documents, things or information has been produced believes that any of the documents, things or information has been improperly designated, the receiving Party may at any time request the Party which made the designation to cancel the designation with respect to any documents, things or information and to agree that thereafter such document, thing or information will no longer be subject to certain or all of the provisions of this Protective Order. Such request shall be in writing and shall identify the information that is contested, including the reasons supporting the contentions. If the Party which produced the documents, things, or information objects to the requested declassification, it must, within five (5) business days of its receipt of the request to declassify, provide the basis for the classification that it will rely on should the Party requesting declassification subsequently file a motion requesting declassification. The Party claiming the higher designation of protection shall have the burden of establishing the status of the particular

document, thing, or information. Until such time as the Court decides any such motion, the documents and information shall retain their initial classification.

7. No copies of documents, things or information designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" shall be received, kept, or maintained by persons other than those authorized to do so under this Protective Order.

8. When a Party gives notice to the other Party that, during an oral deposition, "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" documents, things or information are expected to be produced, used or discussed during the deposition, then only persons authorized to receive such information pursuant to this Protective Order or by permission of the Party whose Confidential Information it is will be allowed to attend that portion of the deposition on behalf of the receiving Party.

9. To the extent it is necessary to file with the Court any material containing or referring to any "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" document(s), thing(s), or information, a Party shall comply with Rule 5-2 of the Local Rules for the United States Federal District Court for the District of Utah.

10. Each Party's production of any document(s), thing(s), or information designated as "*CONFIDENTIAL*" or "*HIGHLY CONFIDENTIAL*" shall be solely for purposes of and use in this action, and those documents, things and information shall not be used for any other purpose or in any other action. If any such document(s), thing(s), or information properly becomes a matter of public record without an order of Court causing the same to be retained under seal or retained in an otherwise confidential manner, then the Parties will have the same

rights to utilize the document, things, or information as the public at large under the First Amendment.

11. Within sixty (60) days after the conclusion of this action and/or any appeal taken therefrom, all documents, things, and other materials produced or designated as containing Confidential Information, and all reproductions thereof, shall be returned to the Party who produced them or, at the option of producing Party, the receiving Party shall destroy such materials in lieu of returning them to the producing Party and shall provide the producing Party a certificate that the destruction was completed.


12. The inadvertent disclosure of any privileged, immune, or otherwise protected or exempted documents, things, information or any portions thereof, as well as the inadvertent production of documents, things, information or any portions thereof without an appropriate designation of confidentiality or privilege shall not be deemed a waiver or impairment of any *claim of privilege, immunity, and/or protection, including but not limited to, the attorney-client privilege and the work product immunity*, and shall not be deemed a waiver or impairment of the confidential nature of any such documents, things, information or portions thereof. Nor shall such inadvertent production be argued to be a general waiver or impairment of the attorney-client privilege, the work product immunity or confidential designation of such documents, things, information or any portions thereof. Upon discovery of an inadvertent production, the producing Party shall immediately advise the receiving Party of any such inadvertent production and the inadvertently produced documents, things, information or portions thereof shall be promptly returned to the producing Party and the receiving Party shall not in any way use the inadvertently produced and subsequently returned documents, things, information or any portions thereof

during this action. This Section shall not in any way limit, compromise, or restrict the receiving Party's right to seek production of the inadvertently produced and subsequently returned documents, things, information or portions thereof through other discovery means or by a motion presented to the Court.

13. Notwithstanding the termination of this action, persons who have had access to "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" documents, things or information shall remain subject to the terms of this Protective Order.

14. This Protective Order may be modified by written agreement of the parties or by further order of the Court. Each Party shall also have the right to petition the Court to modify this Protective Order or for additional protection under Fed.R.Civ.P.26(c).

ENTERED this 31<sup>st</sup> day of August, 2006.

  
JUDGE DALE A. KIMBALL  
UNITED STATES DISTRICT JUDGE

Agreed to and Accepted by:

By: /s/ Brent O. Hatch  
HATCH, JAMES & DODGE, P.C.  
Brent O. Hatch  
Kevin W. Bates

VINSON & ELKINS, L.L.P.  
William D. Sims, Jr.  
John D. Taurman  
Scott W. Breedlove

*Attorneys for Lutron Electronics Co., Inc.*

By: /s/ Thomas R. Vuksinick (with permission)  
WORKMAN NYDEGGER  
Thomas R. Vuksinick

THE HECKER GROUP  
Gary Hecker

COOLEY GODWARD, LLP  
Michael Rhodes

*Attorneys for Control4 Corporation*

**EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

LUTRON ELECTRONICS CO., INC.,  Plaintiff,  vs.  CONTROL4 CORPORATION,  Defendant.	<b>AGREEMENT TO BE BOUND BY THE STIPULATED PROTECTIVE ORDER</b>  Case No. 2:06-CV-00401  Judge Dale A. Kimball
---	--

This is to certify that I have read and understand the Stipulated Protective Order (the "Order") entered in the above-captioned action and agree (a) to be bound by the terms and conditions set forth in the Order; (b) not to reveal to anyone, other than other persons listed in Section 5 of the Order, any documents, things, or information designated under the Order as "*Confidential*"; (c) not to reveal to anyone, other than another persons identified in Section 5 of the Order, any documents, things or information designated under the Order as "*Highly Confidential*," and (d) to utilize such documents, things and information solely for purposes of and in connection with the above-captioned action. In addition, I hereby consent to the jurisdiction of the above-identified Court for purposes of enforcing the Order. I agree that a willful violation of any material term of the Order may be punishable as contempt of court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature  
  
\_\_\_\_\_

Printed Name

**EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

LUTRON ELECTRONICS CO., INC.,  Plaintiff,  vs.  CONTROL4 CORPORATION,  Defendant.	<b>AGREEMENT TO BE BOUND BY THE STIPULATED PROTECTIVE ORDER</b>  Case No. 2:06-CV-00401  Judge Dale A. Kimball
---	--

This is to certify that I am not an employee or family member of an employee of Lutron Electronics Co., Inc. or Control4 Corporation or of a company that I understand is a competitor of either of them. I agree that in accordance with the Court's Order in this case I will not reveal to anyone outside of this proceeding any documents, things, or information shown to me in the proceeding and that I will keep the information learned by me in the proceeding strictly confidential.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name



Randall B. Bateman (USB 6482)  
Perry S. Clegg (USB 7831)  
**BATEMAN IP LAW GROUP**  
8 East Broadway, Suite 550  
Post Office Box 1319  
Salt Lake City, Utah 84110  
Telephone: (801) 533-0320  
Fax: (801) 533-0323  
mail@utah-ip.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

WASATCH HOMES, LLC, a Utah Limited  
Liability Company,

Plaintiff,

vs.

HIGH COUNTRY APACHE BUILDERS,  
INC., d/b/a APACHE BUILDERS, INC., a  
Utah Corporation, FREEDOM DESIGN,  
L.L.C. a Utah Limited Liability Company;  
GARY DEROSE, and DOES 1 through 5,

Defendants.

RECEIVED

AUG 30 2006

OFFICE OF U.S. DISTRICT JUDGE  
BRUCE S. JENKINS

RECEIVED CLERK  
U.S. DISTRICT COURT

AUG 28 2006

U.S. DISTRICT COURT  
DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

**[PROPOSED] ORDER**

Case No. 2:06cv00409BSJ

Judge Bruce S. Jenkins

The Court, having considered Defendants' Motion for an Extension of Time and to  
Conduct Discovery, having considered the arguments of counsel hereby orders that:

- 1) Defendants High Country Apache Builders, Inc. and Gary DeRose shall have until  
Wednesday, September 13, 2006 to file their opposition to Plaintiff's Motion for a  
Temporary Restraining Order.

- 2) Plaintiff's Reply Memorandum shall be due on Friday, September 15, 2006.
- 3) Plaintiff's Motion for a Temporary Restraining Order shall be heard before the Court on Monday, September 18, 2006 at 2:00 p.m.

DATED this 30 day of August 2006.

  
\_\_\_\_\_  
Judge Bruce S. Jenkins  
United States District Court Judge

Agreed as to form:

  
\_\_\_\_\_  
Grant Clayton  
Clifford Vaterlaus  
CLAYTON, HOWARTH & CANNON

Attorneys for Defendants  
High Country Apache Builders, Inc., and  
Gary DeRose

FILED  
U.S. DISTRICT COURT

2006 AUG 31 P 2:01

DISTRICT OF UTAH

CY: \_\_\_\_\_  
DEPUTY CLERK

CHRISTINA J. SCHMUTZ (7301)  
JEFFREY J. DROUBAY (9119)  
PARSONS BEHLE & LATIMER  
Attorneys for Countrywide Home Loans, Inc.  
One Utah Center  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
Telephone: (801) 532-1234  
Facsimile: (801) 536-6111

---

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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DEBRA S. ISAACS,

Plaintiff,

vs.

COUNTRYWIDE HOME LOANS, INC.,

Defendant.

Case No. 2:06cv00556 DS

**ORDER ON DEFENDANT'S STIPULATED  
MOTION TO EXTEND TIME TO ANSWER  
OR RESPOND TO COMPLAINT**

Judge David Sam

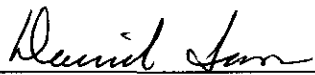
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The Court having reviewed Defendant Countrywide Home Loans, Inc.'s Stipulated Motion to Extend Time to Answer or Respond to Complaint, and good cause appearing,

IT IS ORDERED that the time for Defendant to answer or otherwise respond to Plaintiff's Complaint shall be suspended until such time as the Parties terminate their discussions

regarding arbitration. Defendant then shall have ten days after the termination of said discussions to file its response to Plaintiff's Complaint.

DATED this 31<sup>st</sup> day of August, 2006.

  
\_\_\_\_\_  
THE HONORABLE DAVID SAM  
Senior United States District Judge

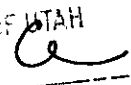
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **ORDER ON DEFENDANT'S STIPULATED MOTION TO EXTEND TIME TO ANSWER OR RESPOND TO COMPLAINT** was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following on this 30th day of August, 2006:

Kenneth Parkinson  
**HOWARD LEWIS & PETERSEN**  
120 East 300 North  
Provo, UT 84606

/s/ Jeffrey J. Droubay \_\_\_\_\_

JONATHAN A. DIBBLE (A0881)  
PAUL C. BURKE (A7826)  
**RAY, QUINNEY & NEBEKER, P.C.**  
36 South State Street, Suite 1400  
P.O. Box 45385  
Salt Lake City, Utah 84145  
Telephone: (801) 532-1500

FILED  
U.S. DISTRICT COURT  
2006 SEP -1 A 11: 04  
DISTRICT OF UTAH  
BY:   
DEPUTY CLERK

*Attorneys for Defendant Willard InterContinental Washington D.C.*

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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**BASIC RESEARCH, L.L.C.**, a Utah limited  
liability company,

Plaintiff

vs.

**WILLARD INTERCONTINENTAL  
WASHINGTON D.C.**, and John Doe  
Corporations I-X.

Defendants.

**ORDER GRANTING JOINT MOTION TO  
EXTEND TIME TO RESPOND TO  
COMPLAINT**

Civil No. 2:06CV00626TS


Judge: Ted Stewart

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Based on the stipulation of the parties, and for good cause appearing, this Court orders  
that the time for Defendant Willard InterContinental Washington D.C. to answer, move, or  
otherwise plead in response to the Complaint shall be extended until September 19, 2006.

DATED this \_\_\_\_\_ day of August, 2006.

BY THE COURT:

  
\_\_\_\_\_  
United States District Court Judge

---

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**ABDUL RAHEEM AL-HISNAWI,**

**Petitioner,**

**vs.**

**UNITED STATES OF AMERICA,**

**Respondent.**

**ORDER**

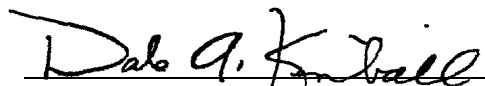
**Case No. 2:06CV694 DAK**

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This matter is before the court on Petitioner's Motion to Correct Sentence under 28 U.S.C. § 2255. The court requests the United States Attorney to file a response to Petitioner's motion by October 2, 2006. The court will then take Petitioner's motion under advisement.

DATED this 31<sup>st</sup> day of August, 2006.

BY THE COURT:



---

DALE A. KIMBALL  
United States District Judge



MEMORANDUM

TO: Markus Zimmer

FROM: Judge David Sam

RE: WILLIAM CHASE WOOD ET AL., V. WORLD WIDE ASSOCIATION OF  
SPECIALTY PROGRAMS AND SCHOOLS, INC., ET AL., 2:06CV00708

DATE: AUGUST 31, 2006

FILED  
U.S. DISTRICT COURT  
AUG 31 P 2:00

DISTRICT OF UTAH

---

I find I must step aside in the above matter. Would you please assign this case to another judge, and draw a commensurate assignment for me in accordance with the practice of the court.



David Sam

Judge Ted Stewart  
DECK TYPE: Civil  
DATE STAMP: 08/31/2006 @ 14:58:52  
CASE NUMBER: 2:06CV00708 TS

# MEMORANDUM

FILED  
U.S. DISTRICT COURT

2006 SEP -1 P 2: 04

DISTRICT OF UTAH  
BY:   
DEPUTY CLERK

**TO:** Markus Zimmer  
Clerk of the Court

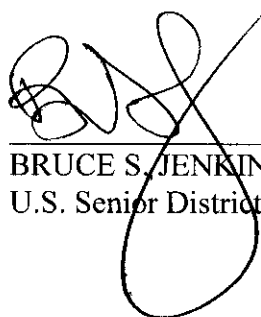
**FROM:** Bruce S. Jenkins  
U.S. Senior District Judge

**DATE:** September 1, 2006

**SUBJECT:** Turner v. Golden Eagle International, Inc., et al.  
Case No. 2:06-CV-738

I find I must recuse myself from this case.

Would you please see that this case is reassigned to another judge pursuant to our computer program.

  
\_\_\_\_\_  
BRUCE S. JENKINS  
U.S. Senior District Judge

Judge Tena Campbell  
DECK TYPE: Civil  
DATE STAMP: 09/01/2006 @ 14:07:48  
CASE NUMBER: 2:06CV00738 TC

UNITED STATES DISTRICT COURT

Central Division

District of

2006 SEP -1 P 4: 28

UTAH

John A. Campbell

Plaintiff

V.

Atlantic City, City of et al

Defendant

ORDER ON APPLICATION  
TO PROCEED WITHOUT  
PREPAYMENT OF FEES

Judge Dale A. Kimball

DECK TYPE: Civil

DATE STAMP: 09/01/2006 @ 16:30:17

CASE NUMBER: 2:06CV00743 DAK

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

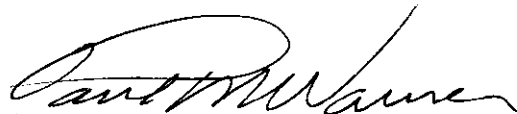
☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

ENTER this 1st day of September, 2006.

  
Signature of Judge

Magistrate Judge Paul M. Warner  
Name and Title of Judge

UNITED STATES DISTRICT COURT

2006 AUG 30 P 5: 26

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION UTAH

SOUTHERN UTAH WILDERNESS  
ALLIANCE, and THE SIERRA CLUB,

Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT; SAN  
JUAN COUNTY, UTAH; KANE COUNTY,  
UTAH; and GARFIELD COUNTY, UTAH,

Defendants.

BY: \_\_\_\_\_  
DEPUTY CLERK

**~~RECEIVED~~ ORDER GRANTING  
MOTIONS AND DISMISSING THE  
CASE**

Consolidated Case No. 2:96CV0836BSJ

Defendants Kane and Garfield Counties' "Motion for Judgment on the Pleadings and to Dismiss for Lack of Subject Matter Jurisdiction" and San Juan County's "Motion for Judgment on the Pleadings and Motion to Dismiss" came before the Court for hearing on August 16, 2006.

Ralph L. Finlayson and Roger R. Fairbanks appeared for defendants Kane and Garfield Counties; Shawn T. Welch appeared for defendant San Juan County; W. Cullen Battle and Heidi J. McIntosh appeared for plaintiff Southern Utah Wilderness Alliance; Jerome L. Epstein appeared telephonically for plaintiff Southern Utah Wilderness Alliance.

Having considered the briefing, the law, and the arguments of counsel, the Court finds that there is no longer a live case or controversy as to SUWA's claims against the BLM and the Counties because there is no claim of present or ongoing construction on the tracts of land at issue in this case, the BLM has dismissed its claims against the Counties, and the BLM and the

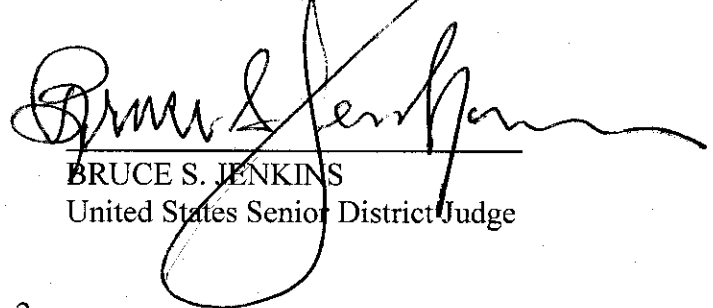
Counties are not at this time contesting issues concerning the Counties' asserted rights-of-way. For its part, SUWA pleaded no ownership interest in the land subject to the asserted rights-of-way and the United States is no longer a party to this case. *Cf. San Juan County v. United States*, 420 F.3d 1197, 1209-10 (10th Cir. 2005) (noting "that SUWA could not itself initiate or defend a federal quiet title action"). As the Supreme Court recently reaffirmed, ""[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies."" *DaimlerChrysler Corp. v. Cuno*, 126 S.Ct. 1854, 1861 (May 15, 2006) (quoting *Raines v. Byrd*, 521 U.S. 811, 818 (1997) (quoting *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U.S. 26, 37 (1976))); *Allen v. Wright*, 468 U.S. 737, 750 (1984) ("Article III of the Constitution confines the federal courts to adjudicating actual 'cases' and 'controversies.'")

Consequently,

**IT IS ORDERED** that defendants Kane and Garfield Counties' Motion for Judgment on the Pleadings and to Dismiss for Lack of Subject Matter Jurisdiction (dkt. no. 471), and defendant San Juan County's Motion for Judgment on the Pleadings and Motion to Dismiss (dkt.no. 477), are hereby GRANTED IN PART, to the extent that the above-entitled proceeding is DISMISSED without prejudice for want of an actual case or controversy.

DATED this 30 day of August, 2006.

BY THE COURT:



BRUCE S. JENKINS  
United States Senior District Judge